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DISPOSITION OF JUDGMENT FUNDS AWARDED TO THE  
SAC AND FOX INDIANS

GOVERNMENT

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HEARING

BEFORE THE

SUBCOMMITTEE ON INDIAN AFFAIRS

OF THE

COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS

UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

S. 1823

A BILL TO PROVIDE FOR THE DISPOSITION OF FUNDS  
APPROPRIATED TO PAY JUDGMENTS IN FAVOR OF THE  
SAC AND FOX INDIANS IN INDIAN CLAIMS COMMISSION  
DOCKETS 219, 153, AND 135, AND FOR OTHER PURPOSES

S. 1953

A BILL TO PROVIDE FOR THE DISPOSITION OF FUNDS  
APPROPRIATED TO PAY JUDGMENTS IN FAVOR OF THE  
SAC AND FOX INDIANS IN INDIAN CLAIMS COMMISSION  
DOCKETS NUMBERED 153 AND 135, AND FOR OTHER  
PURPOSES

SEPTEMBER 18, 1975



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INFORMATION





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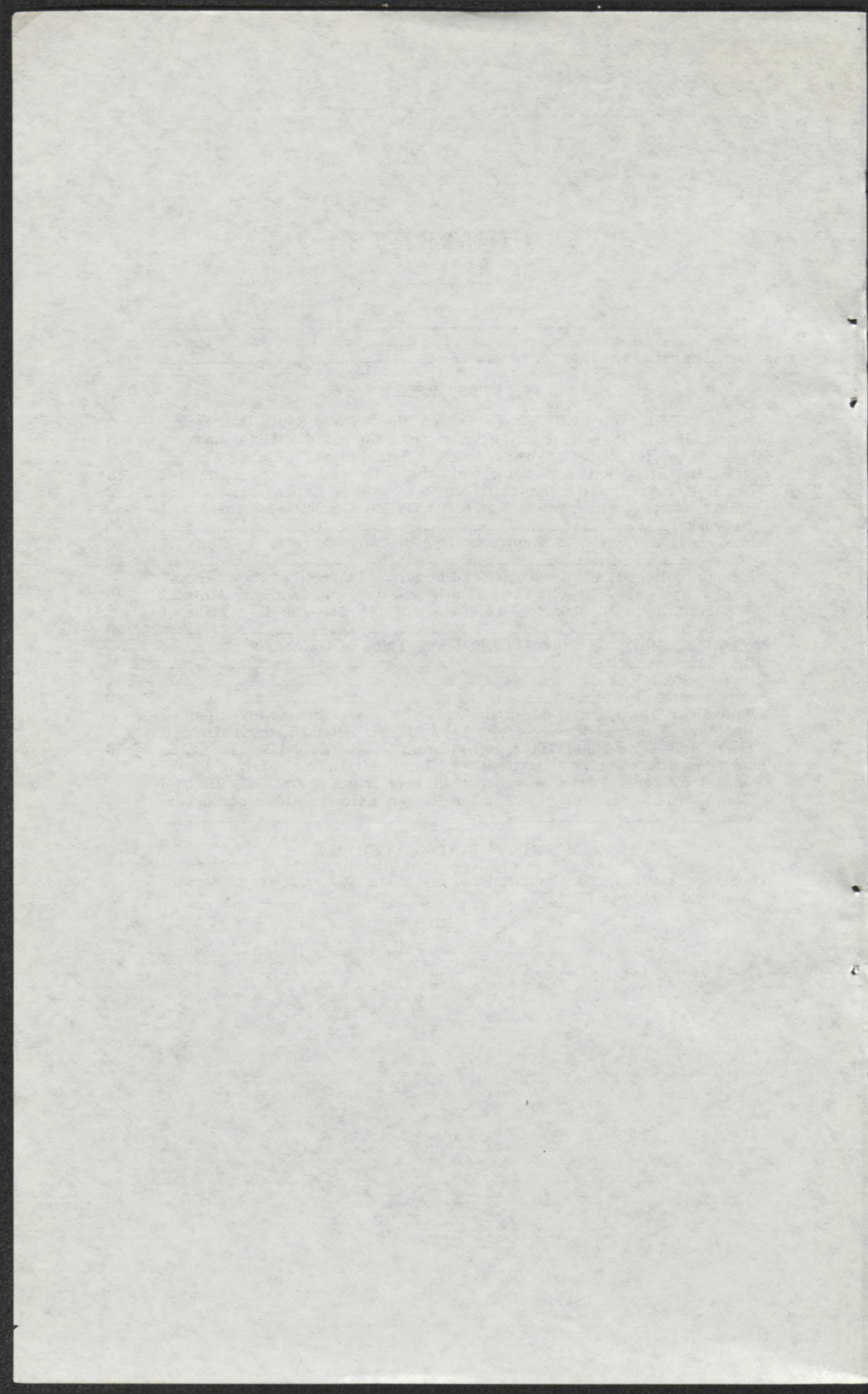
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## DISPOSITION OF JUDGMENT FUNDS AWARDED TO THE SAC AND FOX INDIANS

THURSDAY, SEPTEMBER 18, 1975

U.S. SENATE,  
SUBCOMMITTEE ON INDIAN AFFAIRS,  
OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,  
*Washington, D.C.*

The subcommittee met, pursuant to notice, at 10 a.m., in room 3110, Dirksen Office Building, Hon. James Abourezk presiding.

Present: Senators Abourezk and Bartlett.

Also present: Forrest Gerard, professional staff member.

### OPENING STATEMENT OF HON. JAMES ABOUREZK, A U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator ABOUREZK. The Indian Affairs Subcommittee will come to order.

This is an open public hearing to take testimony from congressional, tribal and departmental witnesses on S. 1823 and S. 1953, both of which provide for the distribution of funds to pay judgments in favor of the Sac and Fox Indians in various Indian Claims Commission dockets.

One of the proposed measures, S. 1823, was introduced pursuant to the act of October 19, 1973, the Indian Judgment Fund Use or Distribution Act. That act provides that the Secretary of Interior submit legislation in lieu of a distribution plan when he finds that circumstances preclude the submission of a distribution plan to Congress.

Senator Dewey Bartlett of Oklahoma introduced the departmental proposal, S. 1823, in the hope that the bill might possibly serve as an equitable approach to the division of the judgment funds among the Sac and Fox of Iowa, the Sac and Fox of Kansas and Nebraska, and the Sac and Fox of Oklahoma.

Senator Robert Dole of Kansas has sponsored S. 1953 as another alternative to this complex controversy over the division of the Sac and Fox judgment funds.

Previous attempts to resolve this tribal dilemma by legislation have proved to be unsuccessful; and, in this connection, I want to assure the Sac and Fox representatives today that I shall devote my time and energies to secure the passage of legislation in this session of Congress to resolve the controversy.

The purpose of this hearing, therefore, is to provide all concerned parties—congressional, tribal and governmental—with an opportunity to express their views and recommendations with respect to the pending bills. You may be assured that the hearing record will be studied



closely by the full committee to assist us in arriving at an informed decision on the controversy and the proposed legislation.

At this point, without objection, I shall order the two bills and departmental report to be made a part of the record.

[The texts of S. 1823 and S. 1953 with the departmental report follows:]



94TH CONGRESS  
1ST SESSION

# S. 1823

## IN THE SENATE OF THE UNITED STATES

MAY 22, 1975

Mr. BARTLETT (for himself and Mr. BELLMON) introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

## A BILL

To provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*  
3 That the funds appropriated by the Act of October 21,  
4 1968 (82 Stat. 1190, 1198), to pay a judgment to the  
5 Sac and Fox Tribe of Oklahoma and the Sac and Fox  
6 Tribe of the Mississippi in Iowa in Indian Claims Commis-  
7 sion Docket 219, and the funds appropriated by the Acts  
8 of July 6, 1970 (84 Stat. 376), and March 21, 1972 (86  
9 Stat. 86), to pay judgments to the Sac and Fox Nation in



1 dockets 153 and 135, respectively, together with interest  
2 thereon, after payment of attorney fees and other litigation  
3 expenses, shall be distributed as provided herein.

4 SEC. 2. (a) The funds in docket 219 shall be divided  
5 between the Sac and Fox Tribe of Oklahoma and the Sac  
6 and Fox Tribe of the Mississippi in Iowa, and the funds  
7 in dockets 153 and 135 shall be divided among the Sac  
8 and Fox Tribe of Oklahoma, the Sac and Fox Tribe of the  
9 Mississippi in Iowa, and the Sac and Fox Tribe of the Mis-  
10 souri in Kansas and Nebraska, on the basis of the relative  
11 numbers of members of each tribe who were enrolled on,  
12 or who were inadvertently omitted from, census rolls as of  
13 January 1, 1937, and who are presently enrolled as mem-  
14 bers of their respective tribes, unless they are deceased.

15 (b) For the purpose of carrying out the provisions of  
16 section 2 (a) of this Act, each Sac and Fox Tribe shall have  
17 not to exceed ninety days from the date of this Act in which  
18 to identify those persons, living or deceased, who were in-  
19 advertently omitted from the January 1, 1937, census roll  
20 of the tribe.

21 (c) The provisions of section 2 (a) of this Act shall  
22 apply only to the division of the judgment funds in dockets  
23 219, 153, and 135, between or among the respective Sac  
24 and Fox Tribes, as appropriate, and nothing in this section  
25 shall be construed as applicable to the payment per capita



1 of any portion of the share of any Sac and Fox Tribe that  
2 may be so distributed.

3 SEC. 3. After the judgment funds are divided as pro-  
4 vided in section 2 (a) of this Act, the sum of \$5,000, to-  
5 gether with appropriate interest thereon for not less than  
6 one day, shall be deducted from the share of the judgment  
7 funds that is due the Sac and Fox Tribe of Kansas and  
8 Nebraska from the judgment in docket 153, and shall be  
9 divided between the Sac and Fox Tribes of Iowa and of  
10 Oklahoma according to the formula for division of the judg-  
11 ment funds as provided in section 2 (a).

12 SEC. 4. (a) The funds as divided under the provisions  
13 of this Act may be utilized for any purposes that are au-  
14 thorized by the respective tribal governing bodies and ap-  
15 proved by the Secretary of the Interior: *Provided*, That not  
16 less than 20 per centum, together with accrued interest  
17 thereon, of the share of each Sac and Fox Tribe shall be  
18 used for programing purposes.

19 (b) Any portion of the share of the judgment funds  
20 accruing to any Sac and Fox Tribe that may be distributed  
21 in individual shares shall be paid to persons whose names  
22 appear on the membership roll of said tribe compiled in  
23 accordance with the membership criteria of the tribe's con-  
24 stitution, made current as of the date of this Act.

25 SEC. 5. Sums payable to enrollees or their heirs or



1 legatees who are less than eighteen years of age or who are  
2 under a legal disability shall be paid in accordance with such  
3 procedures, including the establishment of trusts, as the Sec-  
4 retary of the Interior determines appropriate to protect the  
5 best interests of such persons.

6 SEC. 6. None of the funds distributed per capita or held,  
7 in trust under the provisions of this Act shall be subject to  
8 Federal or State income taxes, and per capita payments shall  
9 not be considered as income or resources when determining  
10 the extent of eligibility for assistance under the Social Secu-  
11 rity Act.

12 SEC. 7. The Secretary of the Interior is authorized to  
13 prescribe rules and regulations to carry out the provisions of  
14 this Act.



94TH CONGRESS  
1ST SESSION

# S. 1953

---

## IN THE SENATE OF THE UNITED STATES

JUNE 17 (legislative day, JUNE 6), 1975

Mr. DOLE introduced the following bill; which was read twice and referred to the Committee on Interior and Insular Affairs

---

## A BILL

To provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets numbered 153 and 135, and for other purposes.

1        *Be it enacted by the Senate and House of Representa-*  
 2        *tives of the United States of America in Congress assembled,*  
 3        That the funds appropriated by the Acts of July 6, 1970 (84  
 4        Stat. 376), and March 21, 1972 (86 Stat. 86), to pay judg-  
 5        ments to the Sac and Fox Nation in dockets numbered 153  
 6        and 135, respectively, together with interest thereon, after  
 7        payment of attorney fees and other litigation expenses, shall  
 8        be distributed as provided herein.

9        SEC. 2. The funds in dockets numbered 153 and 135



1 shall be divided among the Sac and Fox Tribe of Oklahoma,  
2 the Sac and Fox Tribe of the Mississippi in Iowa, and the  
3 Sac and Fox Tribe of Missouri in Kansas and Nebraska as  
4 follows:

5 36.91 per centum to the Sac and Fox Tribe of the  
6 Mississippi in Iowa;

7 51.70 per centum to the Sac and Fox Tribe of  
8 Oklahoma; and

9 11.39 per centum to the Sac and Fox Tribe of Mis-  
10 souri in Kansas and Nebraska.

11 SEC. 3. Percentage authorized herein shall apply to  
12 all future claims awarded jointly to the Sac and Fox Tribes.

13 SEC. 4. After such division, the sum of \$5,000, together  
14 with appropriate interest thereon for not less than one day,  
15 shall be deducted from the share of the judgment funds that  
16 are due the Sac and Fox Tribe of Kansas and Nebraska from  
17 the judgment in docket numbered 153, and shall be divided  
18 between the Sac and Fox Tribes of Iowa and of Oklahoma  
19 according to the formula for division of the judgment funds  
20 as provided in section 1 of this Act.

21 SEC. 5. The funds as divided under the provisions of this  
22 Act may be utilized for any purposes that are authorized by  
23 the respective tribal governing bodies and approved by the  
24 Secretary of the Interior: *Provided*, That, not less than  
25 20 per centum, together with accrued interest thereon, of



1 the share of each Sac and Fox Tribe, shall be used for pro-  
2 graming purposes.

3 SEC. 6. Sums payable to enrollees or their heirs or  
4 legatees who are less than eighteen years of age or who are  
5 under a legal disability shall be paid in accordance with  
6 such procedures, including the establishment of trusts, as  
7 the Secretary of the Interior determines appropriate to  
8 protect the best interests of such persons.

9 SEC. 7. None of the funds distributed per capita or held  
10 in trust under the provisions of this Act shall be subject to  
11 Federal or State income taxes, and per capita payments shall  
12 not be considered as income or resources when determining  
13 the extent of eligibility for assistance under the Social Se-  
14 curity Act.

15 SEC. 8. The Secretary of the Interior is authorized to  
16 prescribe rules and regulations to carry out the provisions  
17 of this Act.





## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

SEP 5 1975

Dear Mr. Chairman:

This responds to your request for our views on two bills: S. 1823, a bill "To provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets 219, 153, and 135, and for other purposes," and S. 1953, a bill "To provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission dockets numbered 153 and 135, and for other purposes."

On November 11, 1974, the Secretary of the Interior transmitted a proposed bill to the Congress to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission Dockets 219, 153, and 135. This proposal was transmitted pursuant to section 2(a) of the Act of October 19, 1973 (87 Stat. 446), the Indian Judgment Fund Use or Distribution Act. S. 1823 is identical to the Department's proposal, and we recommend that it be enacted. We also recommend that S. 1823 be amended to provide that when four awards made subsequent to the awards for dockets 219, 153, and 135 are appropriated, they be distributed in the same manner as provided for under S. 1823. Further, we are offering some clarifying amendments to the bill. We recommend against enactment of S. 1953.

### Analysis of S. 1823

Section 1 of S. 1823 provides for distribution of the funds appropriated to pay judgment awards in Indian Claims Commission Dockets 219, 153, and 135, respectively, together with interest thereon, after payment of attorney fees and other litigation expenses, to the various Sac and Fox Tribes in accordance with the provision of section 2 of the bill.

Section 2(a) of S. 1823 provides for the division of the funds awarded in docket 219 between the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa. It also provides for the division of the funds awarded in dockets 153 and 135 among the Sac and Fox Tribe of Oklahoma, the Sac and Fox Tribe of Iowa, and the Sac and Fox Tribe of Kansas





and Nebraska on the basis of the relative numbers of members of each tribe who were enrolled or entitled to be enrolled on census rolls of each such tribe as of January 1, 1937, and who are presently enrolled members of their respective tribes, unless they are deceased.

Section 2(b) provides for a 90-day period from the date of the Act in which each Sac and Fox Tribe shall correct their respective 1937 census roll. Section 2(c) provides that nothing in section 2(a) applies to any per capita distribution of the judgment funds.

Section 3 of S. 1823 provides that, after the judgment funds in docket 153 are divided among the three beneficiary tribes, the sum of \$5,000 together with interest thereon for not less than one day, shall be deducted from the share of the judgment funds due the Sac and Fox Tribe of Kansas and Nebraska and shall be divided between the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa according to the formula to be used pursuant to section 2(a).

Section 4 of S. 1823 would permit the tribes to utilize the funds distributed under the provisions of the bill for any purposes that are authorized by their respective tribal governing bodies and approved by the Secretary of the Interior, except that not less than 20 per cent (together with accrued interest thereon) of the share of each such tribe shall be used for programming purposes.

Section 5 of S. 1823 contains language to protect the shares of minors and legal incompetents; section 6 exempts any per capita payments made under the provisions of the bill from Federal or State income taxes and from consideration as income or resources under the Social Security Act; and section 7 authorizes the issuance of rules and regulations.

#### Analysis of S. 1953

Section 1 of S. 1953 provides for the distribution of funds appropriated to pay judgments in Indian Claims Commission Dockets numbered 153 and 135.

Section 2 of S. 1953 proposes to divide the funds in docket 153 and 135 among the three tribal groups on a percentage basis as follows: 51.70 per cent to the Sac and Fox of Oklahoma; 36.91 per cent to the Sac and Fox of Iowa; and 11.39 per cent to the Sac and Fox of Kansas and Nebraska.



Section 3 provides that the percentages authorized in section 2 are to be applicable to all future claims awarded jointly to the Sac and Fox Tribes.

Section 4 of S. 1953 is similar to section 3 of S. 1823. Section 5, 6, 7, and 8 of S. 1953 are, respectively, identical to sections 4, 5, 6, and 7 of S. 1823.

#### Background

On September 29, 1967, the Sac and Fox Tribe of Iowa and the Sac and Fox Tribe of Oklahoma received an award of \$899,408.54 in Docket 219, as additional payment for 285,658.20 acres of land within these tribes' former reservation in Kansas that was sold by the United States pursuant to the Treaty of October 1, 1859, and for the cession of an additional 132,178 acres of reservation lands in Kansas under the Treaty of February 18, 1867. No offsets were allowed because they were stipulated and set off against a previous judgment rendered on a compromise settlement of March 2, 1965, in Dockets 138 and 232.

Funds to cover the award in Docket 219 were appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198). The Indian Claims Commission, on February 3, 1971, allowed attorney fees of \$89,940.85. On October 6, 1971, the Commission allowed attorney expenses of \$3,338.09.

On February 4, 1970, the Indian Claims Commission entered a final award of \$10,601,282.66 to the Sac and Fox Nation in Docket 153. The three modern Sac and Fox tribal entities in Iowa, Oklahoma, and Kansas and Nebraska are successors in interest to the Sac and Fox Nation. The award represents payment for 8,592,000 acres of land in Iowa that were ceded under the Treaties of October 21, 1837, and October 11, 1842. No offsets were claimed in this case, but the right was reserved to claim them in any other Sac and Fox case.

Funds to cover the award in Docket 153 were appropriated by the Act of July 6, 1970 (84 Stat. 376). On January 27, 1971, the Indian Claims Commission allowed attorney fees of \$1,060,123.27. Attorney expenses totaling \$168,664.73 were allowed by the Commission in 1973.

On May 7, 1965, the Indian Claims Commission entered an award of \$965,560.39 in favor of the Sac and Fox Nation, in Docket 135. An appeal to the United States Court of Claims resulted in an affirmation by that Court of the Commission's decisions. This award



represents additional compensation for 1,241,700 acres of land in Missouri which were ceded under the Treaty of August 24, 1824, and the Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska are the successors in interest to the Sac and Fox Nation. No offsets were allowed because they had been stipulated and set off against a previous judgment rendered in the compromise settlement of March 2, 1965, in Docket 138.

Funds to cover the judgment in Docket 135 were appropriated by the Act of March 21, 1972 (86 Stat. 86). On July 12, 1972, the Indian Claims Commission allowed attorney fees of \$96,556.04. Subsequently, the Commission allowed attorney expenses totaling \$43,372.81.

S. 1823 proposes to divide the funds in the three dockets on the basis of the relative numbers of the members of the respective tribes who were enrolled or entitled to be enrolled on census rolls of each tribe as of January 1, 1937. We believe a division based on the 1937 census rolls, as corrected, is equitable to each of the Sac and Fox Tribes with respect to each of the judgments of which they are joint beneficiaries. These census rolls are useful for three reasons: (1) they are the official base rolls for membership contained in the organizational documents of the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa; (2) the same criteria were used in preparing the 1937 census roll of all three Sac and Fox Tribes; and (3) the varying enrollment criteria of the respective Sac and Fox Tribes were developed subsequent to the preparation of the 1937 census rolls, except that the Iowa Sac and Fox continue to use a patrilineal membership system which is traditional with them.

Although the Sac and Fox Tribe of Oklahoma for a number of years urged that the judgment funds be divided on the basis of current memberships of the Sac and Fox Tribes, and were adamantly opposed to a division by any other method, that tribe now agrees to a division based on the 1937 census rolls, as corrected, to include persons who should have been named on such rolls but whose names, for one reason or another, were not included on the rolls.

The Sac and Fox Tribes of Iowa and of Kansas and Nebraska, in the past, proposed that the judgment funds in Docket 153 and 135, and all subsequent judgments to the three tribes, be divided: 46 percent to the Sac and Fox Tribe of Oklahoma; 39 percent to the Sac and Fox of Iowa; and 15 percent to the Sac and Fox Tribe of Kansas and Nebraska. This proposed division reflected the vote of the Sac and Fox of Iowa and of Kansas and Nebraska at a meeting of representatives of all three tribes on July 24, 1971. The percentages are not based



on relative memberships of the three tribes as shown by rolls prepared at any point in history or, to the best of our knowledge, on any other equitable ratio. Apparently, they simply represent the shares of the judgment funds which the Sac and Fox Tribes of Iowa and of Kansas and Nebraska feel are their due.

A few months ago, leaders of the Sac and Fox of Kansas and Nebraska indicated that they might support a division of the judgment funds on the basis of 1891 and 1892 allotment and annuity rolls, which were the basis for dividing earlier judgments among the three tribes. We do not know whether there is serious support of this division among the membership.

We have been unable to determine whether the Sac and Fox of Iowa will agree to and support any division but the 46-39-15 formula which was first presented at the 1971 meeting of all three Sac and Fox Tribes.

Several years ago the Sac and Fox of Iowa sought to have the funds in Docket 219 divided between themselves and the Oklahoma Sac and Fox on the basis of the 1891 and 1892 allotment and annuity rolls. The Sac and Fox of Oklahoma wanted these funds divided according to the current membership of the two tribes. Then the award in Docket 153 was made, and both tribes appeared to lose interest in their joint award in Docket 219. Recently, the Oklahoma Sac and Fox included it in the dockets they agreed to divide on the basis of the 1937 census rolls, as corrected. We do not know the position of the Iowa Sac and Fox on this question. They may still favor the 1891-92 allotment and annuity rolls as a division basis, since the percentages they favor for division of funds among the three tribes do not lend themselves to a division of funds in Docket 219 between two tribes, but this is only an assumption.

We are opposed to a division of any of the current Sac and Fox judgment funds on the basis of the 1891 and 1892 allotment and annuity rolls because the rolls are irrelevant to the land sales and cessions on which the claims in the several dockets are based, as well as to the political structures of the three Sac and Fox Tribes as they exist today. The Oklahoma Sac and Fox also are strongly opposed to a division of any of the current judgments on the basis of these allotment and annuity rolls.

We do not support a division of the current Sac and Fox judgment funds on the basis of current memberships because of the wide variances in the membership criteria of the three tribes.



Section 3 of S. 1823 provides for repayment by the Sac and Fox of Kansas and Nebraska of \$5,000 which was withdrawn for that tribe from judgment funds in Docket 153 immediately after the appropriation of covering funds, and prior to the investment of said funds, to cover legal and travel expenses of the tribe in connection with program planning.

Section 4 of S. 1823 is consistent with the provisions of the Act of October 19, 1973, (86 Stat. 446), in that at least 20 percent of the share of each Sac and Fox Tribe of judgment funds in the three dockets shall be used for programming purposes. The remaining funds of each tribal group would be available for additional programming or for a distribution per capita to the tribal memberships, which-ever might be authorized by the respective tribal government bodies and approved by the Secretary of the Interior.

The Sac and Fox Tribe of Oklahoma is organized under the Oklahoma Welfare Act of June 26, 1936. The supreme governing body of the tribe is the Sac and Fox General Council composed of all tribal members who are 21 years of age or older. The tribe also has a business committee empowered to transact business and otherwise speak or act on its behalf concerning all matters on which the tribe is empowered to act, except that acts of the business committee with respect to claims or rights growing out of treaties between the tribe and the United States are not effective unless authorized or approved by the General Council.

The estimated current membership of the Sac and Fox Tribe of Oklahoma is 2,100 (a conservatively low estimate). An estimated 600 members live within the area of the former reservation in Oklahoma. The remainder live in other areas of Oklahoma and in other States.

We understand that the tribe plans to distribute 80 percent of its share of the current judgment funds to the tribal members, and to utilize 20 percent of its funds in long- and short-range program projects. Under consideration are such activities as land acquisition for income-producing programs; a tribal community building; a recreational and vehicle park; the establishment of an Industrial Development Authority; a hunting lodge; baseball camps; restaurant and service station; and museum and trading post complexes; and a loan program for both short-term personal loans and major business loans. These are but a few of the numerous projects that



are being considered by the Sac and Fox of Oklahoma as suitable for financing with their judgment funds. Until the tribe has decided upon specific programs, it hopes to invest its funds earmarked for programming in United States Treasury notes.

The Sac and Fox Tribe of Iowa is organized under the Indian Reorganization Act of June 18, 1934, as amended, and is governed by a Tribal Council of seven members elected at large from the membership population of the settlement. The most recent official membership number we have for the tribe is 779. Of that number, approximately 450 live in the settlement; about 65 live adjacent thereto; and the remainder live in areas away from the settlement.

The Sac and Fox Tribe of Iowa has adopted resolutions to reserve half of its share of funds from Docket 153 for programming, and to distribute the balance of its funds from that docket and all of its share of the funds from Docket 219 to the tribal members. We believe the tribe will wish to make a full distribution per capita of its share of the funds in Docket 135 as well. The tribe wishes to remain flexible in the use of its program funds, but has under consideration such projects as home improvements; education grants; new housing; emergency death benefits for members; certain maintenance costs and expenses; and funding of the tribal housing authority.

The Sac and Fox Tribe of Kansas and Nebraska is organized under the Indian Reorganization Act of 1934. Its governing body is a Tribal Council of five members elected annually on a staggered-term basis. The functions of the council are to represent the tribe on matters such as claims, tribal enrollment, and judgment distribution. The tribe has an estimated membership of 227. None of the members live on the reservation, and only about 20 live near it. The rest of the members are scattered throughout the United States. The tribe has adopted a resolution to program 10 percent of its share of the funds from Docket 153 for land acquisition and to cover tribal operational expenses. The balance of its share of the funds from Docket 153 would be distributed per capita to the tribal members. We do not know what plans the Sac and Fox of Kansas and Nebraska have with respect to their share of the funds in Docket 135. The share of this tribe from previous judgments to the Sac and Fox Nation was distributed per capita to the tribal members.

Four awards were made subsequent to the aforementioned judgments to the Sac and Fox Indians. They are Dockets 158, 231, 83 and 95.



In Docket 158, the Indian Claims Commission awarded \$3,530,578.21 to the Sac and Fox Nation on November 23, 1973. The award was appealed, and the Court of Claims affirmed the Commission's decisions of April 25, 1975. The Sac and Fox Tribes of Oklahoma, Iowa, and Kansas and Nebraska are the beneficiaries of the judgment. The award in Docket 158 represents additional payment for 4,484,800 acres of land in eastern Iowa that were ceded under the Treaty of September 21, 1832. The United States waived claiming offsets in Docket 158.

On November 23, 1973, the Indian Claims Commission award \$943,779.79 to the Sac and Fox in Docket 231. The Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska are the beneficiaries of the award, which represents additional payment of 990,383.50 acres of land in eastern Iowa that were ceded under the Treaty of October 21, 1837. The award was appealed and the United States Court of Claims affirmed the Commission's decisions of April 25, 1975. Gratuitous offsets up to June 30, 1960, were disposed of in Docket 138, and the United States waived claiming offsets in Docket 231.

A judgement of \$1,969,585.00 was entered by the Indian Claims Commission on December 26, 1973, in favor of the Sac and Fox Nation, in Docket 83. The award was appealed, and on April 25, 1975, the Court of Claims affirmed the Commission's decisions. The judgment benefits the Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska. It represents additional payment for 1,638,724.39 acres of land in Missouri that were ceded under the Treaty of November 4, 1804.

On September 25, 1974, the Indian Claims Commission entered two final awards in Docket 95:

1. An award of \$20,421.78, was made jointly to the Sac and Fox Tribes of Iowa, Oklahoma, and Kansas and Nebraska. It represents the sum found due the Sac and Fox from an accounting of the Treaties of July 15, 1830, September 28, 1836, and October 21, 1837;

2. An award, in the amount of \$23,083.34, was made in favor of the Sac and Fox Tribe of the Mississippi in Iowa. It constitutes the balance to the credit of that tribe in Account No. 14X7085, "Sac and Fox of the Mississippi Fund, Iowa, Acts of March 3, 1909, and April 4, 1910," as of November 30, 1973, less the sum of the payments from the account from November 30, 1973, to the date of payment.



Funds were appropriated for the first of the above Docket 95 awards by the Act of June 12, 1975 (89 Stat. 173, 193-194). Funds for the second Docket 95 award remain available in the U.S. Treasury account involved and neither an appropriation nor any further legislative authority beyond the 1909 and 1910 Acts governing the use of funds is required.

The above docket awards (before deduction of attorneys' fees and expenses) which would be distributed under S. 1823 if amended as suggested herein may be summarized as follows:

| <u>Docket No.</u> | <u>Jointly to<br/>All Three Tribes</u> | <u>Jointly to<br/>Okla. &amp; Iowa Tribes</u> |
|-------------------|----------------------------------------|-----------------------------------------------|
| 219               |                                        | \$899,408.54                                  |
| 153               | \$10,601,282.66                        |                                               |
| 135               | 965,560.39                             |                                               |
| 231               | 943,779.79                             |                                               |
| 158               | 3,530,578.21                           |                                               |
| 83                | 1,969,585.00                           |                                               |
| 95                | 20,421.78                              |                                               |
|                   | <hr/>                                  | <hr/>                                         |
| TOTAL             | \$18,031,197.83                        | \$899,408.54                                  |

#### Recommendations

To avoid the need for additional future legislation, we recommend that S. 1823 be amended so that the appropriations for awards in Dockets 231, 158, 83 and 95 will also be distributed in accordance with the provisions of S. 1823. In addition, we recommend technical amendments to the bill.

The amendments are as follows:

1. Amend the title of S. 1823 to read "To provide for the disposition of funds appropriated to pay certain Indian Claims Commission judgments in favor of the Sac and Fox Indians, and for other purposes."
2. Amend section 1 of S. 1823 (beginning after "That" on page 1, line 3 thru page 2 line 3) to read as follows:



"There shall be distributed as hereafter provided in this Act, the funds appropriated as follows (together with all interest earned thereon), less the amounts for payment of attorney fees and other litigation expenses:

(1) The funds appropriated by the Act of October 21, 1968 (82 Stat. 1190, 1198) for the judgment in Indian Claims Commission Docket 219 to the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa;

(2) The funds appropriated for awards to the Sac and Fox Tribe of Oklahoma, the Sac and Fox Tribe of the Mississippi in Iowa, and the Sac and Fox Tribe of the Missouri in Kansas and Nebraska in (i) the Act of July 6, 1970 (84 Stat. 376) for the Indian Claims Commission Docket 153, and (ii) the Act of March 21, 1972 (86 Stat. 86) for Indian Claims Commission Docket 135;

(3) Any funds now or hereafter appropriated for the awards in Indian Claims Commission Dockets 158, 231, and 83; and

(4) From the funds appropriated by the Act of June 12, 1975 (89 Stat. 173, 193-194) for the judgment in Indian Claims Commission Docket 95, the sum of \$20,421.78."

3. Amend section 2(a) (page 2 lines 6 and 7) by deleting "the funds in Dockets 153 and 135" and inserting in lieu thereof "the other funds described in section 1 of this Act."

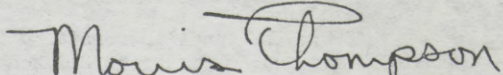
4. Further amend section 2(a) (page 2 lines 13 and 14) by deleting "who are presently enrolled as members of their respective tribes, unless they are deceased" and insert in lieu thereof "who met the qualifications for enrollment on the 1937 census rolls of their respective tribes". This change is necessary to clarify the identity of the persons to be included in the totals to be used in dividing the judgment funds.



5. Amend section 2(c) (page 2 lines 22 and 23) by deleting "funds in dockets 219, 153, and 135," and inserting in lieu thereof "funds described in section 1 of this Act."

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

  
Commissioner of Indian Affairs

Honorable Henry M. Jackson  
Chairman, Committee on  
Interior and Insular Affairs  
United States Senate  
Washington, D.C. 20510



Senator ABOUREZK. We have as our first witness this morning one of our distinguished colleagues, Senator Bob Dole of Kansas.

I would like to welcome you to the subcommittee, Bob, and if you're ready to testify.

**STATEMENT OF HON. ROBERT DOLE, A U.S. SENATOR FROM THE  
STATE OF KANSAS**

Senator DOLE. Thank you, Mr. Chairman.

I would ask that my entire statement be made part of the record, and I'll try to summarize it very quickly.

It is a pleasure for me to introduce to you the chairman of the tribal council of the Missouri Sac and Fox, Mr. Curtis Gilfillan—if you'll just stand. He'll be testifying later. Curtis, would you stand?

Senator ABOUREZK. Mr. Gilfillan, I'd like to welcome you to the subcommittee. You're scheduled to testify just a little bit later this morning.

Senator DOLE. The Missouri tribe is primarily composed of the Sac and Fox in the Kansas-Nebraska area, and Mr. Gilfillan himself is from the town of Reserve, Kansas., near the former Sac and Fox Reservation in northeast Kansas. As chairman of the council, he's well qualified to speak for the nearly 250 bloodline members of the Missouri tribe.

Mr. Chairman, I am aware of the complexities of this problem. I'm aware, of course, that Mr. Bartlett's bill represents the Department's view, S. 1823, and that my proposal, S. 1953, is somewhat different.

I would like to point out, as my statement does, and other witnesses will, that there is, as I understand it, more than \$18 million at stake in the present issue of distribution of Sac and Fox judgment funds. The basis for allocation must be one of fairness. That's the whole purpose, Senator, and I'm certain the Senator from South Dakota and others who will testify will agree—fairness and equity for all interested, eligible recipients.

But I think we have to pay some attention to the history relating to the matter, and this is where the controversy comes, whether we use some 1937 figure or some 1891 figure, or whether we go back to look at the landholdings even prior to that time.

And so, I would hope that in its deliberation that the committee will, as I am certain it will, pay careful attention to all of the past precedents, and as I said make every effort to be fair, because I would hope that everyone will be treated with total fairness, whichever tribe they may be a member of.

It seems to me that it would be improper to compare the membership of one tribe based upon patrilineal lineage with the membership of another tribe which liberalized its criteria in 1954, and this is what happened in the State of Oklahoma. And I can understand their interest now in perhaps receiving an increased share of the awards.

So, Mr. Chairman, having summarized to some extent my statement, and indicating my concern, in fairness to the other witnesses who have traveled a great distance, I will ask that the statement be made a part of the record, and I'll be glad to come back and furnish any additional information that I can.



Senator ABOUREZK. Thank you, Senator Dole. Your statement will be incorporated in the record, and I want to express the thanks and gratitude of the subcommittee for your contribution and your effort to try to settle this dispute on a fair and equitable basis.

Senator DOLE. Thank you.

[The prepared statement of Senator Dole follows:]

STATEMENT OF HON. ROBERT DOLE, A U.S. SENATOR FROM THE STATE OF KANSAS

Mr. Chairman, I appreciate this opportunity to address the committee this morning during its consideration of two bills, S. 1823 and S. 1953, relating to the distribution of judgment awards made by the United States Government to the Sac and Fox Indian Tribe.

It is a pleasure for me to introduce to you the chairman of the tribal council of the Missouri Sac and Fox, Mr. Curtis Gilfillan. The Missouri tribe is primarily composed of those members residing in the Kansas-Nebraska area, and Mr. Gilfillan himself is from the town of Reserve, Kansas, near the Former Sac and Fox reservation in Northeast Kansas. As chairman of the council, Mr. Gilfillan is well qualified to speak for the nearly 250 blood-line members of the Missouri tribe. As an active participant in multilateral discussions on this subject during the past several years, Mr. Gilfillan is quite knowledgeable about the basic issues involved in the distribution of the Sac and Fox judgment funds among the three tribes. He is here today to represent the interests and the concerns of the Kansas-Nebraska tribal unit. Before Mr. Gilfillan begins, I'd like to make a few remarks on behalf of S. 1953, which I introduced three months ago and which is now under review by this committee.

More than \$18 million is now at stake in the present issue of distribution of Sac and Fox judgment funds. The basis for allocation must be one of fairness and equitability for all interested, eligible recipients, with due attention to the history and precedents relating to the matter. These awards result from claims filed with respect to certain land sales and cessions made to the U.S. Government by the Sac and Fox nation in the early years of our Nation's history. The additional compensation now being made to correct inequities of the past, as determined by the Indian claims commission, will be used to benefit members of all three tribes both socially and economically today. Of the eight dockets recently awarded to the Sac and Fox tribe, the Kansas-Nebraska group is an eligible joint-recipient of all but one of the awards. With the Oklahoma and Iowa tribes, they will share in the division of the seven docket payments, and it is that distribution which S. 1953 seeks to determine in an equitable manner.

Historically, the Kansas-Nebraska (Missouri tribe, has been smaller in size than the other two Sac and Fox units, but it possessed a larger land area and exercised more influence in tribal matters during the nineteenth century than did the confederated Mississippi tribes to which the other units belonged. Were the Department of Interior able to determine now what the respective tribal memberships were at the time that the land sales were made to the U.S. Government, we might have the most fair statistical means available by which to make proper reimbursement to the Sac and Fox. However, most of these sales and cessions were made before 1870, when membership figures were incomplete. On the other hand, current membership figures are grossly inadequate for a distribution basis, because of large variances in membership criteria among the three tribes involved. It would be totally improper, for example, to compare the membership of one tribe based upon patrilineal lineage with the membership of another of the tribes which liberalized its criteria considerably in 1954.

Consequently, it is my understanding that the three tribes, as well as the Department of the Interior, are basically in agreement that distribution must be based upon membership figures established when the respective tribal criteria were as near alike as possible, and when adequate data was available.

The 1891 and 1892 allotment and annuity rolls meet both of these standards, and in 1967 the Bureau of Indian Affairs agreed that this data provided an acceptable and equitable means for distribution of initial award funds in dockets 138 and 143. The data represented membership figures reasonably close to the time that actual land sales were made, and at a time when membership criteria for the Oklahoma, Iowa, and Kansas-Nebraska tribes were roughly equivalent. But utilizing this means of distribution, the Department of Interior established a suitable precedent for distribution of remaining funds.



More recently, however, as later judgments were made in favor of the Sac and Fox, the Department has succumbed to pressure to change the distribution system to one based upon census rolls taken in 1937, which would give a considerably greater share of these considerable funds to one of the three groups, at the detriment of the other two. The bill S. 1823 would accomplish this change, substantially reducing the proportionate share of the Kansas-Nebraska and the Iowa tribes, while increasing the share of the third.

It seems to me and others represented here this morning that such a change violates every principle of consistency, precedent, and fairness which should be associated with distribution of these funds. It is detestable to think that this change in the allocation system should result from the superior numbers and pressure brought to bear by one of the three tribal groups.

The Department, in a letter to the chairman of the Senate Interior Committee dated September 5, cites three factors in support of the 1937 census rolls: They are based on similar membership criteria among all three groups; they pre-date the widely variant criteria developed in recent years; and they are the official base rolls for membership contained in the organizational documents of both the Oklahoma and Iowa tribes. Of these three factors, the first two apply equally well to the 1891-1892 rolls. The last factor totally excluded any consideration for the Kansas-Nebraska group and ignores the objections of the Iowa group. Furthermore, this rationale ignores the period-relevance of the 1891-1892 rolls in favor of much later figures which really bear no historical relevance at all to the period when land sales were made.

Mr. Chairman, it seems to be most inappropriate to change the basis of distribution at this late date. The Indian Claims Commission has now adjudicated all outstanding claims filed by the Sac and Fox Nation, and ample precedent exists for distribution of the remainder of the awards. I certainly feel that any change in the previously used method of distribution at this late stage would tend to discriminate against those tribes destined to lose money in the change. It would also cast some doubt upon the relevance of earlier distributions now completed, based as they were on the 1891 and 1892 membership rolls.

The 1937 census-based distribution does not represent a "compromise"—two of the three groups in question object strongly to it. It represents instead an arbitrary decision in favor of the most vocal of the three groups, which has no justifiable basis in precedent or historical relevance.

I trust the judgment of this committee to review all of the factors involved in this issue and to protect the interests of all those concerned. I urge the committee to look favorably upon the provisions of S. 1953.

Senator ABOUREZK. The next witness is the Honorable Charles Grassley, Congressman from Iowa.

Mr. Grassley.

Representative GRASSLEY. Thank you.

Senator ABOUREZK. Mr. Grassley, we want to welcome you to the subcommittee.

Representative GRASSLEY. Thank you, Senator.

#### STATEMENT OF HON. CHARLES GRASSLEY, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA

Mr. Chairman, I appreciate the opportunity to be with you to share with you some of my thoughts on the division of these funds, and my interest is particularly involved because of the residency of the Sac and Fox within my congressional district.

I would like to note for the record the attendance of six people who are members of the Sac and Fox Tribe of the Mississippi in Iowa who are here, one of whom will be speaking to the committee. The six are: Columbus Keahnah, and also—

Senator ABOUREZK. Would you like them to stand?

Representative GRASSLEY. Yes. Please stand as I read your names.



Charles Pusketonequa, Kenneth Youngbear, Frank Pusketonequa, Louis Mitchell, and Barbara Keahna.

Senator ABOUREZK. I'd like to welcome all of you to the hearings today.

Representative GRASSLEY. Before I make a few comments, I want to comment on Senator Dole's use of the words "fairness and equity," and I want to reemphasize what I think he was trying to emphasize, that fairness and equity in this instance means more than just the numbers, or the total population of a particular tribe as a factor in the determination of how this money is to be divided.

I would also like to point out for the benefit of the committee, for historical perspective, in Congress' involvement in this, a letter to the tribe in Iowa, dated 1952. And I would only like to read one paragraph.

It says:

This Bureau—

Meaning the Bureau of Indian Affairs—

has no authority to determine the respective shares of the various Sac and Fox bands in any joint recovery under the Indian Claims Commission Act. And it is doubtful in our judgment whether Congress would attempt to legislate any division of funds without agreement of all the bands.

And then I would quote similar language from a letter from Buford Morrison, Area Field Resident of the Bureau of Indian Affairs, dated June 18, 1965, to Mr. Charles W. Rabidoux [phonetic], chairman of the Sac and Fox Tribal Council, Hiawatha, Kans. It says:

The matter of equitable division of the funds is important. It must be agreed to by all three branches of the Sac and Fox nation.

Since all awards will be granted in such a matter, the recommended division will give the Oklahoma group 51.7 percent of the total grant, the Iowa group 36.9 percent, and the Kansas and Nebraska group 11.4 percent. The recommendations are based on the number of persons accounted for by allotment and annuity payment rolls developed at about the same time in the past and more representative of the people of the Sac and Fox as originally existed than any other records that are available. This office believes that the suggested division is fair, and that the method stated should be used as the basis for equitably dividing the funds awarded to the Sac and Fox nation.

Now, Mr. Chairman, this tells me at this time that the procedure that Congress is now embarking upon is somewhat different than has been its involvement in the past. And I think it's legitimate that Congress get involved, if it can be settled no other way.

But I do think that we need to take into consideration some of the precedents set by the Government's involvement in the past.

I would urge each member of this subcommittee to give serious scrutiny to the method of determining membership in the tribe. The language of some of the bills would permit all persons who are presently enrolled as members of their respective tribes to receive an equal share of the award without regard to Indian blood quantum, tribal organization, heritage, or residence.

It is my belief that members of the Sac and Fox tribe who actively participate in the day-to-day life and the heritage of their forefathers must be set apart from persons enrolled in a tribe whose family lineage is significantly removed from Indian ancestry.

Mr. Chairman, this bill and this approach must not be allowed to become a form of welfare that would diminish the amount of award to



the Sac and Fox tribal members who are direct descendants or near-direct descendants for Sac and Fox Indians. This is the issue to be resolved.

If no restriction is placed upon per capita distribution of funds, I am convinced this bill would work a hardship upon the Sac and Fox in Iowa, who are proud of the tribal association and their Sac and Fox community.

As an example of how proud they are, the Sac and Fox of Iowa have for 76 years sponsored an annual pow-wow on land purchased by the tribe for their residence and livelihood. Their community organization meets to the letter—and I want to emphasize—the community organization meets to the letter the criterias set out in the Indian Claims Commission Act of 1946, a fact that should be given appropriate attention by this subcommittee when giving consideration to the distribution of awards.

The Iowa group has made every effort to come to an agreement with the Sac and Fox Tribes from other States on the question of an equitable distribution of the docket awards, but to date some of these efforts have been to no avail.

This is true, in a large part, to the extensive differences in the tribal constitution and by-laws. The Sac and Fox of Iowa is a closely knit group with the most restrictive enrollment criteria of any of the Sac and Fox Tribes. To put it another way, a person with distant Indian ancestry cannot walk in off the street and suddenly declare himself or herself an Iowa Sac and Fox Indian and become instantly enrolled for the purposes of reaping a share of the distribution of these awards.

It is unfortunate that elsewhere less stringent enrollment practices have significantly expanded Sac and Fox enrollment far beyond a tribal entity and an active Indian heritage.

Moreover, elsewhere Indian ancestry has been declared generations removed from the tribe in order to expand tribal enrollment.

Any expansion of the tribal enrollment on this basis does work a hardship among immediate-descendant Indians, such as those who compose the vast majority of the Sac and Fox in Iowa.

I trust the members of this committee will bear this in mind when considering the language of the legislation before them.

Regarding other factors about the Sac and Fox, I would first like to point out that on previous distribution awards the tribe in Iowa retained 40 percent of the award for use by the entire community, as opposed to individual distribution. Present law would allow individual distributions up to 80 percent and use by the entire community of 20 percent.

Now, additionally to this—because I want to emphasize it—past experience has been that at least 40 percent of these funds have been used for the entire community. Current policy of the group in Iowa is that the distribution of these awards be on a 50-50 basis. That would mean 50 percent on a per capita basis, 50 percent to be retained by the group for the mutual benefit of the entire community.

Another thought about the Iowa branch of the Sac and Fox is that there is a school in the settlement where Indian culture is a major portion of the teaching. Children are taught their own language early, and all members of the tribe speak the language. Their old Indian



traditions remain and are clear to one who goes about the community as a sightseer.

There are things about it that you will look at and appreciate. For example, there is a group of people that is trying to retain their Indian culture, their Indian heritage. It is that that is foremost in my mind that I would like to leave with you in consideration of the award that this group of the Sac and Fox ought to have when the settlement comes.

To reemphasize, Mr. Chairman, please do not forget that the Sac and Fox in Iowa retain the large share, or half to be exact, much more than is indicated that other tribes will do, for the mutual benefit of the entire group.

And, too, this group is retaining as best they know how the culture that it seems to me, like movements favoring the native Americans, are trying to perpetuate in American society, and most of all to build an appreciation on the part of the people in their community of their native American heritage.

That seems to me at this point to be even the goal of the Federal Government, and if it isn't it ought to be.

Thank you, Mr. Chairman.

Senator ABOUREZK. Thank you, Mr. Congressman Grassley.

The next witness will be the Honorable Morris Thompson, the Commissioner of Indian Affairs.

**STATEMENT OF HON. MORRIS THOMPSON, COMMISSIONER, BUREAU OF INDIAN AFFAIRS; ACCOMPANIED BY JANET PARKS, ENROLLMENT OFFICE OF TRIBAL OPERATIONS; MICHAEL SMITH, TRIBAL OPERATIONS; AND RALPH REESER, DIRECTOR, OFFICE OF LEGISLATION**

Commissioner THOMPSON. Thank you, Mr. Chairman.

Senator ABOUREZK. Mr. Thompson, I'd like to welcome you and your staff to the subcommittee hearings.

I would like to, just at the offset, have the understanding that you always feel obligated as part of your duties to provide the subcommittee with an oral history of the background of the awards, and since it's been pretty well documented, and I wonder if you would be able to concentrate on the Department's position on the substantive issues.

Commissioner THOMPSON. Mr. Chairman, we'd be pleased to.

Prior to starting our testimony this morning, let me introduce other Bureau officials that are with me.

Senator ABOUREZK. Very well.

Commissioner THOMPSON. On my left is Janet Parks from our Enrollment Office of Tribal Operations.

On my immediate left is Michael Smith, also from Tribal Operations.

To my immediate right is Ralph Reeser, Director of the Office of Legislation.

In line with the chairman's wishes, we will summarize the statement and move directly to questions that the committee may have.

It's our pleasure to appear before the subcommittee on S. 1823 and S. 1953, to legislatively resolve a dispute between the three interested beneficiary groups under the Sac and Fox Nation judgment awards.



Basically, we support S. 1823 over S. 1953 because we favor using the 1937 rolls of the three Sac and Fox Tribes, as opposed to going to the current membership or current enrollment in the three tribes, or as opposed to going to an annuity roll or census roll taken in the late 1800's or early 1900's.

The question before the committee is what procedures should be adopted to divide the moneys among the three groups. We propose doing it on the basis of enrollment in 1937 for three or four reasons.

The first and foremost is that 1937 appears to be a fair starting date for all three tribes. It was after this date that various tribes, various groups, liberalized somewhat their enrollment criteria.

Second, several of the groups organized around the 1937 census roll, and so it was a fair starting point.

Third, there would be a great amount of difficulty going back and ascertaining with any degree of certainty the eligibility of certain people omitted from annuity or allotment rolls in the late 1800's. The problem with that, Senator, is that those annuity rolls were based on those individual Indians that came forward to express an interest in receiving allotments or requested an annuity. However, not all eligible Indians at that time came forward and we have no way of—because of the great time that has passed—determining who was eligible to receive an allotment or annuity, as opposed to who did receive them.

The allotment roll is a roll of individuals who signed up to take an allotment, and that's somewhat different from a collective group of people who deserve a proportionate share of the funds from the judgment awarded for lands taken by or ceded to the United States.

So, it's because of those basic, inequitable differences that we support S. 1823 over S. 1953.

In essence, Mr. Chairman, this is the finding of our Bureau in working with the three groups. It's fair to say to the committee that all three groups don't support all of the provisions of our proposal, and that is why we're bringing it to the committee as a compromise to settle the issue on how to divide the funds since the three groups are not able to agree on a method for division of the funds.

I believe, Mr. Chairman, that summarizes very quickly a statement which, of course, I submit in full for the record.

Senator ABOUREZK. I appreciate that very much.

[The prepared statement of Commissioner Thompson follows:]

STATEMENT OF HON. MORRIS THOMPSON, COMMISSIONER, BUREAU OF INDIAN AFFAIRS

It is a pleasure to appear before the Subcommittee to present our views on S. 1823 and S. 1953 relating to the distribution of Indian Claims Commission awards for claims of the Sac and Fox Indians. Our eleven page report of September 5, 1975, provides detailed background information and recommendations. Rather than repeating all that material I will highlight the background and issues involved and our reasons for favoring S. 1823 over S. 1953 as well as the reasons for the amendment we propose to S. 1823.

The Indian Judgment Funds Act of 1973 provides authorization whereby the Bureau of Indian Affairs, in consultation with the Indian groups involved, develops plans for the use or distribution of funds appropriated to pay judgments awarded by the Indian Claims Commission. The Act provides that such plans be submitted to the Congress and if neither the Senate nor the House passes a resolution disapproving a plan, it goes into effect.

However, for cases where there are significant policy issues involved or where there is disagreement as to what a judgment fund plan should contain, the Act provides that the Secretary of the Interior may submit proposed legislation to



the Congress providing for the distribution. The Sac and Fox judgment fund plan presents such a situation and on November 11, 1974, we submitted a proposed bill to the Congress which is identical to S. 1823. We did so because of the controversy among the three successor groups entitled to share in the Sac and Fox awards as to how much each group should receive.

There are three organized and federally-recognized successor entities to the Sac and Fox Nation as it existed at the time of its first treaty with the United States in 1804:

- (1) The Sac and Fox Tribe of Oklahoma;
- (2) The Sac and Fox Tribe of the Mississippi in Iowa; and
- (3) The Sac and Fox Tribe of the Missouri in Kansas and Nebraska.

After the deduction of some \$215,000 in legal fees, approximately \$12.25 million remained available from the amount awarded in the three dockets to which S. 1823 as introduced applies. In addition nearly \$6.5 million was awarded in the four later dockets described in our report to the Committee.

We are recommending that provisions for the distribution of these four awards be added to S. 1823 to avoid the need for future legislation since the issues involved are the same. S. 1953 would apply to the six dockets for which all three Sac and Fox entities are eligible but not to the \$899,408.51 in docket 219 for which the Kansas and Nebraska group is not eligible.

Both S. 1823 and S. 1953 would divide the funds on the basis of the number of people in the respective groups. S. 1823, which we endorse, would do so on the basis of their respective 1937 census rolls, as corrected to include persons who were eligible to be on those rolls but who, for one reason or another, were not included on the rolls. S. 1953 would divide the funds in the six dockets for which all three tribes are eligible on the basis of specific percentages set out in that bill.

An attachment to my statement shows the estimated comparative division under S. 1823 and S. 1953 based on the original award amounts with no deductions for legal expenses or additions for interest earned. The precise percentage division under S. 1823 would not be known until completion of the 1937 roll corrections called for in the bill. The total amount to be distributed under either bill is subject to the deduction of legal fees and expenses and the addition of interest earned subsequent to appropriations of the funds for the various awards.

We believe that S. 1823 and its division of the funds based on the 1937 census rolls, as corrected, is equitable to each of the Sac and Fox Tribes. These census rolls are useful for three reasons: (1) they are the official base rolls for membership contained in the organizational documents of the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of Iowa; (2) the same criteria were used in preparing the 1937 census roll of all three Sac and Fox Tribes; and (3) the varying enrollment criteria of the respective Sac and Fox Tribes were developed subsequent to the preparation of the 1937 census rolls, except that the Iowa Sac and Fox continue to use a patrilineal membership system which is traditional with them.

Although the Sac and Fox Tribe of Oklahoma for a number of years urged that the judgment funds be divided on the basis of current memberships of the Sac and Fox Tribes, they now agree to a division based on corrected 1937 census rolls as proposed in S. 1823.

The Sac and Fox Tribes of Iowa and of Kansas and Nebraska, in the past, proposed that the judgment funds in dockets 153 and 135, and all subsequent judgments to the three tribes, be divided:

- 46 percent to the Sac and Fox Tribe of Oklahoma;
- 39 percent to the Sac and Fox Tribe of Iowa; and
- 15 percent to the Sac and Fox Tribe of Kansas and Nebraska.

This proposed division reflected the vote of the Sac and Fox of Iowa and the Sac and Fox of Kansas and Nebraska at a meeting of representatives of all three tribes in 1971. The percentages are not based on relative memberships of the three tribes as shown by rolls prepared at any point in history nor, to the best of our knowledge, on any other equitable ratio.

At the recent House hearings on H.R. 4016, a companion bill to S. 1823, leaders of the Sac and Fox of Kansas and Nebraska indicated that they support a division of the judgment funds on the basis of 1891 and 1892 allotment and annuity rolls, which were the basis for dividing earlier judgments among the three tribes.

At those hearings, testimony on behalf of the Sac and Fox of Iowa indicated that they would compromise on a division based on 1909 census rolls which would result in:

- 54.96 percent for the Oklahoma group;
- 39.10 percent for the Iowa groups; and



8.94 percent for the Kansas and Nebraska group.

We opposed a division of any of the current Sac and Fox judgment funds on the basis of the 1891 and 1892 allotment and annuity rolls or on the 1909 census rolls because the rolls are irrelevant to the land sales and cessions on which the claims in the several dockets are based, as well as to the political structures of the three Sac and Fox Tribes as they exist today.

We also oppose a division of the current Sac and Fox judgment funds on the basis of current memberships because of the wide variances in the membership criteria of the three tribes.

Section 3 of S. 1823 provides for repayment by the Sac and Fox of Kansas and Nebraska of \$5,000 which was withdrawn for that tribe from judgment funds in docket 153 immediately after the appropriation of covering funds, and prior to the investment of said funds, to cover legal and travel expenses of the tribe in connection with program planning.

Section 4 of S. 1823 is consistent with the provisions of the Indian Judgment Funds Act in that at least 20 percent of the share of each Sac and Fox Tribe of judgment funds in the three dockets shall be used for programming purposes. The remaining funds of each tribal group would be available for additional programming or for a distribution per capita to the tribal memberships, whichever might be authorized by the respective tribal government bodies and approved by the Secretary of the Interior.

We estimate that the current membership of the Sac and Fox Tribe of Oklahoma is at least 2,100. An estimated 600 members live within the area of the former reservation in Oklahoma. The remainder live in other areas of Oklahoma and in other States.

The most recent official membership number we have for the Sac and Fox Tribe of Iowa is 779. Of that number, approximately 450 live in the settlement; about 65 live adjacent thereto; and the remainder live in areas away from the settlement.

The Sac and Fox Tribe of Kansas and Nebraska has an estimated membership of 227. None of the members lives on the reservation, and only about 20 live near it. The rest of the members are scattered throughout the United States.

Four awards were made subsequent to the aforementioned judgments to the Sac and Fox Indians. They are dockets 158, 231, 83 and 95. To avoid the need for future legislation, we recommend that S. 1823 be amended to include these awards along with dockets 153 and 135 which are also payable to all three Sac and Fox groups.

Funds for dockets 158, 231, and 83 have not yet been appropriated as appeals are still possible. Funds are appropriated for the first part of the two part docket 95 award by the Act of June 12, 1975 (89 Stat. 173, 193-194). Funds for the second part of the docket 95 award remain available in the United States Treasury account involved and neither an appropriation nor any further legislative authority is required beyond the Acts governing the use of funds.

This concludes my formal statement.

#### COMPARISONS OF DISTRIBUTION FORMULAS FOR DOCKETS 153, 135, 231, 158, 83 AND 95

| GROUP                    | S. 1823 |              | S. 1923 |             | Difference   |
|--------------------------|---------|--------------|---------|-------------|--------------|
|                          | Percent | Amount       | Percent | Amount      |              |
| Oklahoma.....            | 1 62    | \$11,179,342 | 51.70   | \$9,322,129 | -\$1,857,213 |
| Iowa.....                | 1 30    | 5,409,359    | 36.91   | 6,655,315   | +1,245,956   |
| Kansas and Nebraska..... | 1 8     | 1,442,496    | 11.39   | 2,053,753   | +611,257     |
| Total.....               | 100     | 18,031,197   | 100     | 18,031,197  | 0            |

<sup>1</sup> Estimate.

#### DOCKET 219 DISTRIBUTION UNDER S. 1823

| Group               | Percent | Amount    |
|---------------------|---------|-----------|
| Oklahoma group..... | 1 66    | \$593,610 |
| Iowa group.....     | 1 34    | 305,799   |
| Total.....          | 100     | 899,409   |

<sup>1</sup> Estimate.



Senator ABOUREZK. I wonder, since I'm kind of new to this particular dispute, if I might just be able to focus a couple of questions, just as a basis to determine which rolls are which.

Would you just describe the 1890 roll briefly, who was on it? I mean what percentage of today's population is on that roll, and exactly how it works. And then I'd like to go to the 1937 roll.

Commissioner THOMPSON. I beg your pardon, Mr. Chairman.

Senator ABOUREZK. 1891 and 1892 roll.

If you want to have your enrollment person speak to this issue, that is agreeable with me.

Commissioner THOMPSON. Perhaps Janet Parks would be pleased to respond.

Ms. PARKS. In 1891 they had an annuity roll for the Sac and Fox of Iowa which contained 402 names, for the Sac and Fox of Oklahoma it contained 549 names. The percentage would be 42.27 and 57.73.

Senator ABOUREZK. Now, what is that? What are those percentages?

Ms. PARKS. Percentage, division percentage between the two tribes.

Senator ABOUREZK. Oh, I see.

Ms. PARKS. And for the three groups it would be 402 for Iowa, 549 for Oklahoma and 79 people for the Kansas group; and the percentage would be 39.03 for Iowa, 53.30 for Oklahoma, and 7.67 for Kansas.

Senator ABOUREZK. All right. Now, that is the 1891-92 roll as proposed?

Ms. PARKS. That was an annuity roll.

Senator ABOUREZK [presiding]. Yes. And that was put in in one of these pieces of legislation?

Mr. SMITH. S. 1953.

Senator ABOUREZK. 1953.

Now, can you tell me today how many people are in these various tribes?

Ms. PARKS. I have a figure for 1970. I do not have a current membership figure.

Senator ABOUREZK. The most current that you have.

Ms. PARKS. For Iowa, 779. The most current figure I have for the Oklahoma group is 1,956; Kansas, 227. And the percentage breakdown: For Iowa 26.30, Oklahoma 66.04, Kansas 7.66.

I have the percentage in rate of growth from 1880 to 1970 or from 1880 to 1937, if you'd like that.

Senator ABOUREZK. All right.

Now, the 1937 roll is described as what kind of a roll?

Ms. PARKS. It was a census roll prepared by the Bureau of Indian Affairs.

Senator ABOUREZK. And can you give me the numbers of that then?

Ms. PARKS. For Iowa there are 441, Oklahoma 862 and Kansas 126. And the percentages are 30.86 for Iowa, 60.32 for Oklahoma, and Kansas 8.82. Or, rounded off, it would be 62, 30 and 8, as corrected, if as proposed under S. 1823, the 1937 rolls were corrected.

These are based on the 1937 rolls for the Iowa group and the Oklahoma groups, which are their basic membership rolls. As to the Kansas group, its based on their roll in 1935. There are 125 people on the Kansas group's base roll and 126 on the census.



Senator ABOUREZK. Now, for the distribution of these funds, if you took the 1891 roll, as being proposed by one of the Bills, you would take any of those people alive today, and their direct descendants.

Is that how you would do it?

Commissioner THOMPSON. No.

Senator ABOUREZK. How would that proposal be done?

Commissioner THOMPSON. Two ways of doing it, Senator: One would be to take the roll at that time and use that for splitting the money. Once the money is divided among the groups, the tribes can then redistribute those funds to their current membership.

Senator ABOUREZK. In other words, if for example under the 1891 roll if you had 402 members of the Iowa tribe, you would divide that 42 percent of the money by 402 people, and then you would take each one of those persons and determine how many heirs they have, and the heirs would each get one share?

Commissioner THOMPSON. Well, there is—

Senator ABOUREZK. How do you propose to do it?

Commissioner THOMPSON. If we split it up based on 1937 or 1892, whatever time period the committee or Congress eventually comes up with, it will be split along say a 30-60-10—or 30-30-30 split. Each tribe as an entity would receive its share—just being wide for a minute.

Senator ABOUREZK. Right.

Commissioner THOMPSON. Then depending on the 1973 judgment award, the plan that comes forward to the tribe, it would be up to them to determine how they would split their one-third among their tribal membership.

Senator ABOUREZK. I see. So, the legislation before us is only to determine how much each tribe gets, and then each tribe does the rest of it?

Commissioner THOMPSON. That is correct.

And one of the reasons, of course, Senator, that we're proposing the 1937 census, is that we want to be able to insure that we leave out no individuals in correcting the 1937 rolls. We feel it would be exceedingly difficult or nigh on impossible to go back to the 1800's and correct these rolls.

Senator ABOUREZK. Are you saying the 1937 roll is probably a reasonable compromise between other proposals?

Commissioner THOMPSON. That's our feeling, yes, sir.

Senator ABOUREZK. Oh, yes; I want to ask you one thing: If you would have your enrollment staff work with our subcommittee staff perhaps today, to sit down and work up a comparison chart for each proposal, so that it would be easy to look at at a glance, if you don't already have it.

Commissioner THOMPSON. We do have that, but we will make our people available if they have additional questions.

Senator ABOUREZK. Fine. If we just have a chart—do you have it with you by any chance?

Commissioner THOMPSON. Yes, we do.

Senator ABOUREZK. Then we can put it in the record. Fine. [See p. 51.]

Counsel has some questions.



Mr. GERARD. Mr. Commissioner, I believe you covered the original question I had, which was obviously a further elaboration of why you favor the 1937 census roll as the basis for the division over others, but I do have some further questions.

Can you reiterate how the percentage formula was developed in S. 1953? Is that based on the 1891 and 1892 rolls, or what is the justification for that percentage formula?

Commissioner THOMPSON. It's my understanding that S. 1953 proposes to distribute on the basis of the annuity and allotment rolls of 1891 and 1892.

Mr. GERARD. Are you familiar with Public Law 90-80, relating to Sac and Fox Dockets 138 and 143?

Commissioner THOMPSON. Yes we are.

Mr. GERARD. How were the funds allocated in that public law?

Commissioner THOMPSON. They were based on these annuity and allotment rolls.

Mr. GERARD. Of 1891 and 1892?

Commissioner THOMPSON. 1891 and 1892, yes, sir.

Mr. GERARD. What was the Department of Interior's position on that legislation?

Commissioner THOMPSON. We supported that legislation primarily because there was total agreement, or there was expressed agreement between the three tribes involved.

Mr. GERARD. I guess the point of confusion in my mind, after reading the report and background material on the pending legislation, is why the 1891-1892 roll is now considered to be inaccurate, and yet you apparently—not you personally, but the Department—appeared before Congress and testified in favor of that legislation at the time, and felt that it was a justifiable roll.

Commissioner THOMPSON. For several reasons: One, that there was, when that legislation was pending, there was only one docket up and that was only for that docket. There was tribal concurrence among the three successive groups, second. Third, there was some agreement made between the three groups, which one of the groups feels was not kept, under which 15 percent of the funds were to be held back pending agreement by the three groups on a final division of the funds.

We now have a very different situation, of course, in that we now have \$18 million to divide. We have three dockets at this time and there are three additional dockets coming down the pike, and we're attempting to find the most equitable solution because we don't have tribal agreement on how to divide the funds.

Mr. GERARD. Well, I read that the Oklahoma people deny that they supported that position in Public Law 90-80, but we will reserve a question for them when they come up to testify.

I have a few other questions relating to the legislation that I would like to discuss with you, going to S. 1823.

Commissioner THOMPSON. Yes.

Mr. GERARD. If you could go to page 4, section 6. That deals with the protection of minors' share and legally disabled individuals.

Commissioner THOMPSON. Excuse me. Do we have the right bill? I'm sorry, it's in the wrong section. Section Number 5?

Mr. GERARD. S. 1823.



Commissioner THOMPSON. Section 6 in the one that we have deals with the per capita distribution held in trust, pertaining to Federal income tax.

Mr. GERARD. Yes. I'm sorry. The line after the word "Act:" If the committee were to amend the bill further and add the following: "or any other Federal or federally assisted programs."

What would your position be with respect to that Amendment?

Commissioner THOMPSON. We have currently pending within the administration a review of Section 6. We are not prepared today to respond as to what the administration's position would be.

Mr. GERARD. I would hope in that regard that the administration would refer to the Navajo-Hopi Act, Public Law 93-531. I believe it's Section 22, in which that language was included. Apparently when that act went over to the Department and the Office of Management and Budget there was no objection to that language.

And then, also, I believe your report to the House Subcommittee on a judgment bill, H.R. 5090, supports that language. So, there seems to be a little ambiguity as to where the Department stands with respect to that further exemption on per capita.

Also, I understand that some of the groups are concerned about language in section 2(a) of 1823. And that appears on line 14, the comma after "tribes:" "unless they are deceased."

Is it my understanding that you propose to strike that language through one of your amendments?

Commissioner THOMPSON. That is correct.

Mr. GERARD. Can you tell us why you feel it's necessary to do so?

Mr. SMITH. In order to clarify the situation, we propose to strike in that same section 2(a), starting after—on line 13, after the word "and"—we propose to strike out the rest of that line and the remainder of the sentence, and revise it to read "\* \* \* and who met the qualifications for enrollment on the 1937 census roll with their respective tribes."

We feel that this language is much clearer, and the "unless they are deceased" language has a certain ambiguity to it.

Mr. GERARD. We have had an informal report which reached the committee, that the language in section 5 may not be sufficiently strong enough to protect minors' shares. In other words, we're told there are times when the local BIA superintendent may come under pressure to make payments out of minors' shares, which should be protected, under the terms of previous judgment acts.

I wonder if you could have your counsel check that language further, and provide the committee with a followup and tell us if any further changes are needed in order to guarantee protection of the principal and interest of minors' shares.

Commissioner THOMPSON. Yes.

May I ask one question: Is it the committee's intent to protect the minors' shares from distribution by the custodian or by the parent?

Mr. GERARD. I think that's been basically the policy. I'm not going to answer for the committee, but I think in light of the report that's reached us that we're going to have to present it to them when they consider this legislation.

We'd like that information, and they'll make their determination.



Commissioner THOMPSON. If I may, that is not a very common occurrence, but in my tenure as Commissioner I've run across that exact situation, where officials, tribal officials, and parents do attempt—I was going to use the words attempt to put pressure—but attempt to persuade the Bureau to disburse a portion of the minors' shares.

It always creates, of course, for any trustee a great amount of a quandary, because it suggested that the Bureau and the Department, and in the essence the United States, a possibility of an eventual lawsuit from the minor when he reaches the age of consent.

So, it's a very, very difficult problem.

Mr. GERARD. Well, I think you could review that language and give us your opinion.

Commissioner THOMPSON. We'd be pleased to.

[Subsequent to the hearing Commissioner Thompson supplied the following communication:]





IN REPLY REFER TO:

## United States Department of the Interior

BUREAU OF INDIAN AFFAIRS  
WASHINGTON, D. C. 20245

OCT 17 1975

Honorable James Abourezk  
Chairman, Subcommittee on Indian  
Affairs  
United States Senate  
Washington, D.C. 20510

Dear Senator Abourezk:

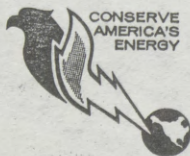
During the course of your Subcommittee's September 18 hearings on S.1823 and S.1963, providing for the distribution of judgement funds awarded by the Indian Claims Commission to the Sac and Fox Indians, we were advised that the Committee had received an informal report indicating that the language in section 5 of S.1823 (which is identical to section 6 of S.1963) may not be sufficient to "guarantee protection" of the shares of minors. The Committee had been advised that in some cases BIA Agency Superintendents may be pressured to make disbursements from funds he holds in trust (as the representative of the Secretary of the Interior) for minors. We were requested to review the provision and provide the Committee with our opinion.

Section 5 of S.1823 provides: "Sums payable to enrollees or their heirs who are less than eighteen years of age or who are under a legal disability shall be paid in accordance with such procedures, including the establishment of trusts, as the Secretary of the Interior determines appropriate to protect the best interests of such persons."

Funds held by the Bureau of Indian Affairs under provisions such as section 5 of S.1823 would be deposited in an "Individual Indian Money Account" and would be subject to the following regulations set out in title 25, Code of Federal Regulations:

## "§104.4 Minors

Funds of a minor may be disbursed in such amounts deemed necessary in the best interests of the minor for the minor's support, health, education, or welfare to parents, legal guardians, fiduciaries, or to persons having the control and custody of the minor under plans approved by the Secretary or his authorized representative, or to the minor directly, upon such conditions as

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the Secretary or his authorized representative may prescribe. The Secretary or his authorized representative will require modification of an approved plan whenever deemed in the best interest of the minor.

#### "§104.5 Adults Under Legal Disability

The funds of an adult who is non compos mentis or under other legal disability may be disbursed for his benefit for such purposes deemed to be for his best interest and welfare, or the funds may be disbursed to a legal guardian or curator under such conditions as the Secretary or his authorized representative may prescribe."

The "authorized representative" referred to in the foregoing regulations is generally the Superintendent of the BIA Agency serving the tribe of the Indian involved. As you will note, the regulations do rely on the judgement of the Agency Superintendent. This is done to enable the Superintendent to respond to the wide variety of situations which may exist or arise concerning specific individuals. A BIA Agency Social Worker generally is the one to investigate the circumstances involved in a request for disbursement of funds and makes an appropriate report and recommendation to the Agency Superintendent.

We have had under review a proposed revision of 25 CFR §104.4 which would reduce the amount of discretion that Agency Superintendents have to authorize disbursements from a minor's Individual Indian Money Account. We believe that such a change will meet the "pressure" problem raised at the September 18 hearing and provide adequate protection for the interests of the minors involved. The proposed change in the regulation will be published in the Federal Register for comment in the near future.

Section 5 of S.1823 also includes authority for "the establishment of trusts" which would enable us to establish a trust account under the supervision of a local bank. Such an account could be a method of avoiding the problem of potential "pressure" on an Agency Superintendent as referred to above. However, in line with the policy indicated in section 3(a) (25 U.S.C. 1403(a)) of the Judgment Fund Use or Distribution Act of October 19, 1973 (87 Stat. 467), we would seek and give due consideration to the views of the leaders of the tribe involved.

A factor to be considered in any decision to place minor's funds in trust with a bank is the likelihood that the funds would earn less interest than would be the case if the funds were included in the BIA's investment program for Indian funds. In addition, a more



direct loss of funds for the minors would result from the trustees charges for their services. For these reasons, as a general rule, we believe that the use of an Individual Indian Money Account is the alternative which best serves the interests of minors.

It should be noted that a variety of statutory provisions relating to the protection of minors and incompetents have been enacted in statutes authorizing the distribution of judgement awards. For example, a review of such provisions involving Oklahoma, Kansas, Nebraska, and Iowa tribes, reveals the following:

Provisions substantially the same as section 5 of S.1823 were included in the following statutes:

1. Sec. 3 of the Act of July 13, 1970 (25 U.S.C. 1223) relating to the Peoria Tribe of Oklahoma;
2. Sec. 3 of the Act of Sept. 16, 1970 (25 U.S.C. 881a) relating to the Citizens Band of Potawatomi Indians;
3. Sec. 7 of the Act of June 2, 1972 (25 U.S.C. 1128) relating to the Miami Tribe of Oklahoma;
4. Sec. 5 of the Act of October 3, 1972 (25 U.S.C. 1295) relating to the Delaware Indians of Oklahoma;
5. Sec. 4 of the Act of October 6, 1972 (25 U.S.C. 1300b-3) relating to the Kickapoo Tribes of Oklahoma and Kansas.

A similar provision, but without a reference to the establishment of trusts, is as follows:

"A share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons."

Such a provision as the foregoing was included in the following statutes:

1. Sec. 4 of the Act of September 14, 1961 (25 U.S.C. 964) relating to the Omaha Tribe of Nebraska;
2. Sec. 2 of the Act of October 9, 1962 (25 U.S.C. 992) relating to the Cherokee Nation of Oklahoma;



3. Sec. 5 of the Act of August 20, 1964 (25 U.S.C. 1035) relating to the Shawnee Bands of Oklahoma;
4. Sec. 8 of the Act of October 14, 1966 (25 U.S.C. 1118) relating to the Miami Tribe of Oklahoma;
5. Sec. 4 of the Act of September 21, 1968 (25 U.S.C. 1184) relating to the Delaware Indians of Oklahoma; and
6. Sec. 2 of the Act of October 27, 1972 (25 U.S.C. 883a) relating to the Osage Tribe of Oklahoma.

Another provision (section 2 of the Act of November 2, 1966; 25 U.S.C. 967b) relating to the Omaha Tribe of Nebraska is similar to the provisions in the foregoing statutes except that it requires "consultation with the tribal governing body" in the determination of the procedures to protect the interests of minors and those under a legal disability.

This latter consultation provision is consistent with the section 3 (25 U.S.C. 1403) of the Indian Judgement Funds Distribution or Use Act. Section 3(a) of that Act provides for the preparation by the Secretary of "a plan which shall best serve the interests of all those entities and individuals entitled to receive funds of each Indian judgement." The subsection continues with the requirements for consideration of the views of the Indian tribes affected by a judgement and for the holding of a hearing of record "to obtain the testimony of leaders and members" of such tribes. Section 3(b) of the Act provides:

"In preparing a plan for the use or distribution of the funds of each Indian judgement, the Secretary shall, among other things, be assured that -

(1) \* \* \*

(3) the interests of minors and other legally incompetent persons who are entitled to receive any portion of such funds as are subsequently distributed to them are and will be protected and preserved; \* \* \*

Section 3 (25 U.S.C. 873) of the Act of May 9, 1958, relating to the Otoe and Missouri Tribe, includes the following:

"(b) Per capita payments due persons under twenty-one years of age or persons under legal disability shall be made in accordance with the laws of the



place of domicile of such person, or in accordance with such procedures as the Secretary determines will adequately protect the best interests of such persons."

Section 3 (25 U.S.C. 913) of the Act of July 17, 1959 relating to the Quapaw Tribe includes this provision:

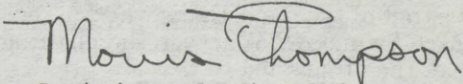
"(b) A share payable to a person under twenty-one years of age or to a person under legal disability shall be paid in accordance with the laws applicable to such person in the place of his domicile, or in the discretion of the Secretary of the natural parent or guardian of such person."

Finally, section 3 (25 U.S.C. 1163) of the Act of October 31, 1967 as amended by the Act of September 29, 1972, relating to the Cheyenne-Arapaho Tribes, required that minor's judgment funds be placed in trust with a bank as follows:

"A share or proportional share payable to an enrollee or person under eighteen years of age or to an enrollee or person under legal disability other than because of age shall be paid and held in trust for such enrollee or person pursuant to a trust agreement to be made and entered into by and between the Cheyenne-Arapaho Tribes of Oklahoma, as grantor, and a national banking association located in the State of Oklahoma, as Trustee, which trust agreement shall be authorized and approved by the tribal governing body and approved by the Secretary of the Interior. \* \* \*"

To repeat, we believe that our proposed revision of 25 CFR §104.4 will meet the problem raised at the September 18, 1975 hearing before your Subcommittee on Indian Affairs and therefore we do not believe that section 5 of S.1823 needs to be revised.

Sincerely yours,

  
 Morris Thompson

Commissioner of Indian Affairs



Mr. GERARD. One final question: Recognizing that the enrollment from tribe to tribe is strictly a tribal prerogative—in other words they set the criteria—what is your response to the allegation that the Oklahoma Sac and Fox have relaxed their enrollment criteria to increase their membership and thus claim a larger share of the funds that we are discussing today?

Commissioner THOMPSON. That, in my understanding of the situation, is not the case. In fact, in 1954 the Sac and Fox Tribe of Oklahoma adopted a one-fourth blood degree membership criteria.

It was, if you will use the term that was used earlier today, a liberalization from 1939 to 1954, but from 1954 on the criteria for tribal enrollment has been at least one-fourth blood degree. So, it's fair to say that the tribe made their enrollment criteria more stringent for the last 20 years.

Mr. GERARD. I have no further questions.

Senator ABOUREZK. I believe we have no more questions.

Thank you very much for your testimony.

Commissioner THOMPSON. Thank you, Senator.

Senator ABOUREZK. The next witness will be Mr. Columbus Keahnah, chairman of the Sac and Fox Tribal Council of Iowa, accompanied by his legal counsel, Laurence C. Mills.

And if you would like to come forward to the witness table.

Is Mr. Mills here with you?

Mr. KEAHNAH. He's out of the room right now.

Mr. ABOUREZK. All right.

I'd also like to announce that Senator Clark had to go to another meeting, but he will be back at 11:05, and I would like to interrupt your testimony at that time to allow him just a brief moment to testify. I just want to make sure you have that understanding.

And I'd like to ask you to use the microphone, if you would please, so that you can be easily heard.

Mr. MILLS. Am I at bat? Am I supposed to speak? Is it my turn? I was out of the room, that's why I asked.

Mr. ABOUREZK. Whoever the chairman wants—if he wants you to speak then that's fine.

#### STATEMENT OF COLUMBUS KEAHNAH, CHAIRMAN, SAC AND FOX TRIBAL COUNCIL OF IOWA; ACCOMPANIED BY LOUIS MITCHELL; FRANK PUSHETONEQUA; AND LAURENCE MILLS

Mr. KEAHNAH. Mr. Chairman, I have three people that will speak on my behalf.

First, Mr. Louis Mitchell, and second Frank Pushetonequa, and lastly Mr. Laurence Mills.

Mr. ABOUREZK. OK. Whoever you want to start out—we'll have them designated.

Mr. PUSHETONEQUA. My name is Frank Pushetonequa.

Mr. ABOUREZK. Frank, if you'll pull the microphone real close to you and try to speak loudly it will be very helpful.

#### STATEMENT OF FRANK PUSHETONEQUA

Mr. PUSHETONEQUA. My name is Frank Pushetonequa of the Sac and Fox of Iowa. I am speaking on behalf of the Sac and Fox of the



Mississippi in Iowa, in regard to the division of awards of the Indian Claims Commission.

The funds have not been distributed to the three groups concerned because of the dispute between the Sac and Fox of Oklahoma and the other two groups. The funds ought to be divided among the three groups according to the official enrollment figures of the groups. This would be an equitable way of doing it, if all the parties concerned use the same criteria for enrolling members into their tribes.

The fact is, however, that they do not. The Oklahoma tribe accepts persons for enrollment with a lesser quantum of Indian blood than the Iowa group does. We respect their right to do that in matters that concern just themselves, but in this instance, unless all three tribes use the same standard for computing membership, the distribution of funds cannot be equitable.

On July 24, 1971, representatives of the three tribes concerned met in Kansas City, Mo., to arrive at an agreement on the distribution of claims docket 153. The Sac and Fox of Oklahoma wanted the funds divided according to recent enrollment figures. The representatives of the other two tribes disagreed because they knew the Oklahoma tribe's figures represented people of lesser quantum of Indian blood, and that these people had been enrolled since the Indian Claims Act was passed.

The obvious inference to be made was that the Oklahoma tribe had accepted these "recent Indians" for the purpose of getting a larger share of the awards money.

Since the Sac and Fox of the Mississippi in Iowa and the Sac and Fox of Missouri agreed and made the vote two-to-one, it was agreed at the meeting that the division of funds would be as follows: Sac and Fox of Oklahoma, 46 percent; Sac and Fox of Iowa, 39 percent; Sac and Fox of Missouri, Kansas, and Nebraska, 15 percent.

We had understood that the Government intended to take a "hands off" position in the matter of the division of the funds and were surprised therefore to learn that the Sac and Fox of Oklahoma, through their representatives in Congress, had a bill introduced in the House of Representatives to hold a hearing on the division of the awards.

The Sac and Fox of Iowa and the Sac and Fox of Missouri, Kansas and Nebraska met again at Omaha, Nebr. on September 30, 1972, and reaffirmed the action taken at the Kansas City meeting.

However, if the Sac and Fox of Oklahoma still refuse to honor their agreement reached in Kansas City on July 24, 1971, we feel all three tribes should use the 1891-92 allotment annuity rolls: 51.70 percent Oklahoma, 36.91 percent Iowa, 11.39 percent Missouri.

This would be fair, as we are not speaking about a per capita distribution, but a percentage distribution. At that time, there had not been so much dilution of Indian blood among the Oklahoma Sac and Fox.

We wish to make it clear that we have nothing but good will for those people who have Indian blood, no matter how little, but we are a people who have had a life expectancy of 20 years less than the average black and almost 30 years less than the average white. Our unemployment rate has been higher and our educational level lower than any other ethnic group in America. We have lived with a stereotype of being lazy and savage.



At the same time, we have kept our culture and language. This is not true of those people who are primarily white, and others.

Now that there is something to be gained from being Indian, we are seeing people claim to be Indian who would have denied it a few years ago. We are seeing employers satisfy the requirements to have minority employees by hiring some of these recent Indians. We are seeing title IV programs claim as Indians anybody who says he is so that a larger grant will be awarded. We are seeing our own people open their rolls to accept people with little Indian blood so that they can get more money.

We don't think that was the intention of the Government when the claims were awarded, or in sponsoring any other program for the benefit of the native American people.

Thank you, sir.

Senator ABOUREZK. Thank you.

Mr. KEAHNAH. Our next speaker will be Mr. Laurence Mills.

#### STATEMENT OF LAURENCE MILLS

Mr. MILLS. Thank you, Mr. Senator.

The two matters before the committee are these two bills: The one that Senator Dole spoke about, S. 1823, which is the same bill that was submitted before the House as H.R. 4016.

Now, it seems to me that we're talking about changing an established ratio that was adopted by the Congress in 1967. At that time we had two awards that were to be distributed.

I notice in the comments by the Commissioner that he said that there was only a small amount, and so apparently there wasn't very much considered—

Senator ABOUREZK. Excuse me, Mr. Mills.

Senator Clark is here now, and as I announced I just want to interrupt for just a few moments and allow him to provide his testimony.

Senator CLARK. Thank you.

Senator ABOUREZK. Excuse me—

Senator CLARK. Thank you very much, Mr. Chairman.

Senator ABOUREZK. If you're ready.

Senator CLARK. If I may interrupt for just a second.

Senator ABOUREZK. You're jousting with your own constituents if you do.

Senator CLARK. We would prefer to interrupt the Oklahoma or Kansas group, but that's the way it worked out.

Mr. MILLS. Let me say: Both bills apparently do not include—excuse me. Were you going to say something, Senator?

Senator ABOUREZK. We're going to let him read his statement.

Senator CLARK. It'll just take about 2 minutes.

Mr. MILLS. Excuse me. I didn't think you were ready.

Senator CLARK. I'll turn it back to you.

Senator ABOUREZK. Are you a former Senator, Mr. Mills?

[Laughter.]

Mr. MILLS. No.

Senator ABOUREZK. You seem to understand the rules of filibuster very well.



Mr. MILLS. Well, I think that's a compliment. Thank you.  
 Senator ABOUREZK. It was meant to be.

**STATEMENT OF HON. DICK CLARK, A U.S. SENATOR FROM THE  
 STATE OF IOWA**

Senator CLARK. I appreciate very much this opportunity, Senator Abourezk, to express my views on this hearing.

I know certainly that this committee seeks the fairest possible way of distributing the awards that are made by the Indian Claims Commission among the Sac and Fox of the Mississippi in Iowa and the Sac and Fox of Missouri, Kansas, and Nebraska, and of the Sac and Fox in Oklahoma.

Representatives of the Sac and Fox of the Mississippi in Iowa are here today testifying before you now, as you know, and of course they advocate the method of allocation outlined in Senator Dole's bill, S. 1953, that is on the basis of the 1891-92 allotment annuity rolls.

I'm here to strongly support that position. I note that the Congress in fact has already expressed itself on that issue in a bill which was signed by the President on August 31, 1967, when that measure passed.

I was not able to be here for the testimony of the Bureau of Indian Affairs, but I would hope that they explained in some detail why they were wrong in 1967 when they specifically supported this legislation, because we believe that it represents the fairest possible distribution of the money.

Mr. Chairman, I believe that using the 1891-92 rolls, as the Iowa Sac and Fox recommend, and as others recommend, is clearly the fairest for the following reasons:

First, earlier awards have been made on this basis, and there seems to be no clear reason in the other legislation that's pending before this committee for changing the method of distribution at this point.

Second, it's essential that the awards be distributed on the basis of the best and fairest information that's available. In recent years the criteria used to determine who does or does not qualify as a member of each of the Sac and Fox Tribes has varied greatly. The Oklahoma tribe has increased its numbers greatly by decreasing the percentage of Indian blood necessary for enrollment.

The Sac and Fox of Iowa have maintained the highest percentage of Indian blood possible by following the traditional qualification criteria of their tribe.

Now, the Sac and Fox of Mississippi in Iowa believe that continuing this tradition is essential to the integrity of their tribe. Since the strength of this tradition now varies among the tribes, and has resulted in different qualifications for enrollment, I believe that using the enrollment taken when all the tribes had the same qualifications, as they did in 1891-92, is far more equitable than using more recent enrollments.

Third, Mr. Chairman, the Iowa Sac and Fox have understood the distribution of awards, or at least claims docket 153, would be determined by vote of the tribes themselves, and not by an edict from the Federal Government.



In 1971 representatives of the three tribes met and voted 2-to-1 on a formula for distribution. This position was reaffirmed in 1972. But because of opposition to the formula by the Oklahoma Sac and Fox, the method of distribution is now under consideration in the Congress.

The Iowa, Missouri, Kansas, and Nebraska Sac and Fox Tribes have proposed using the 1891-92 enrollment as a compromise, as you know. This compromise would result in giving a higher percentage of the awards to the Oklahoma Sac and Fox than was agreed to in the 1971-72 meetings.

The proposed compromise seems to me to be more than fair to the Oklahoma tribe's interests.

The reasons I've mentioned give strong legitimacy to the position of the Sac and Fox of Iowa, a position which is shared by the Sac and Fox of Missouri, Kansas, and Nebraska.

In addition, I think special consideration should be given to the views of the Iowa Sac and Fox, because of their special situation. The reservation at Tama, Iowa exists as their tribal home. In fact, they purchased the land for the reservation themselves.

Half of the money awarded to them will be used for the good of all the people on the reservation.

Now, I cannot emphasize too strongly how much it is needed there. They are planning to use a significant part for institutional purposes, schools and so forth.

I know that you will give careful consideration to the testimony that will be given here today and is in the process of being given by the Iowa Sac and Fox. And I hope that you will conclude, as I have, that the fairest method of distribution of the Indian Claims Commission awards to the Sac and Fox would be on the basis of the 1891-92 rolls.

I know this committee will do everything possible to try to arrive at the fairest possible distribution, and I thank you very much.

Senator BARTLETT. I want to thank the Senator from Iowa for his statement, and we appreciate your being here.

Senator CLARK. Thank you very much.

Senator BARTLETT. It's my understanding Mr. Mills was speaking before the interruption. Mr. Mills, you may proceed.

#### STATEMENT OF LAURENCE MILLS—Resumed

Mr. MILLS. Thank you very much.

The question before the committee and the Congress are these two bills. The matter has been pending for a good many years. All of the three tribes need the money. It ought to be resolved without any further delay.

As the Senator just stated, the Congress in 1967 did make an allotment or division between the three tribes, and why the Department has now changed its attitude is difficult for us to understand, because at that time the same questions were present.

We have a trifle more money to consider than we did then, but the problem is the same.

Now, in the bill that the Commissioner approved, there is one provision that I think is rather ominous, and it's serious. On page 2 of the bill—

Senator BARTLETT. Which bill are you talking about?

Mr. MILLS. Of the 1823.

Senator BARTLETT. Thank you.

Mr. MILLS. There is the provision, line 10, which says: "on the basis of the relative number of members of each tribe who were enrolled on



or who were inadvertently omitted from census rolls as of January 1, 1937."

And this then is the language that I think is very serious and should not be in there: "\* \* \* and who are presently enrolled as members of their respective tribes, unless they are deceased."

Now, that means that you will have on that roll people, particularly on the Oklahoma roll, who are enrolled now but who are not enrolled in 1937. And it seems to me that that really should not be in any bill that the Congress adopts.

Now, in the years gone by, when we were studying this question, to illustrate our position we made this chart or graph [indicating].

Senator BARTLETT. Mr. Mills, I might say at this point, that the Bureau has recommended an amendment to lines 13 and 14 of section 2(a) so that it would read "who met the qualifications for enrollment on the 1937 census rolls of their respective tribes."

Mr. MILLS. They want to make that amendment? Is that what I understand?

Senator BARTLETT. Yes.

Mr. MILLS. They have to be alive at the current time when the division is made? Well, even that, of course, gets back to our old problem.

As I started to say, Senator, some years ago when we were considering this question we made a graph to illustrate what happens to the membership and numbers of members of the two groups after the amendment of 1954 by the Oklahoma group, which shows that the projected increase of the Oklahoma group would skyrocket out of sight if we followed their rule.

I think it very clearly demonstrates why we are complaining against that 1937 division.

Now, in 1891, which was the formula apparently used in the act of 1967, they used the 1891 average to come out with these percentages that they use in that bill. And the language is the same as in Senator Dole's bill, and I think it shows why we should approve that bill, 1953.

And let me say this: We're in the last case of the Sac and Fox, of a whole bunch of cases that we have. Two of them we are attempting to have the Supreme Court overrule the award, in two of the dockets, 231 and 158, and we don't know whether the Supreme Court will take those two cases. We're trying to have them considered.

Now, outside of those, we have a total of \$14,450,000 that is available for distribution or division between these three groups. And if we do not get it into the Supreme Court, we will have an additional \$4,400,000. So, the amount that will be available to finally close all of the Sac and Fox cases will be \$18,900,000.

These people all need the money, and the cases will be concluded, and it seems to me that we should do it on the basis of fairness to all of the three tribes.

That's about all I have to say. Thank you.

Mr. KEAHNAH. Thank you. Mr. Mills.

Senator BARTLETT. Mr. Keahnah, since you're the chairman, who would you like to speak next?

Mr. KEAHNAH. Mr. Chairman, Mr. Louis Mitchell is our next speaker.

Senator BARTLETT. Mr. Mitchell.



## STATEMENT OF LOUIS MITCHELL

Mr. MITCHELL. Members of the Senate subcommittee, friends, Mr. Chairman, I believe that you have in your possession at this time the statement that I made in the House in June. I am assuming that.

I wish that would be made a part of the record.

Senator BARTLETT. Yes, we have it. It will be made part of the record.

Mr. MITCHELL. Thank you.

Now, I will not refer to that statement because it's a four-page document, but I will at this time—I have a few specifics here for our consideration at this time. I will not take too much of your time.

Just let me cite a few things that the claims money could do for us, by way of community and economic development for Sac and Fox of Iowa:

First, we could improve and alleviate our dilapidated housing situation. With Federal funding, through BIA housing improvement program we have received small sums of money yearly so far to correct this situation. Thus far, we have made only a scratch to do this.

Example: We have had this program for 6 years now, and only 16 new homes have thus far been built. We have around 90 to 95 more homes, and today families have increased to well over 100. Some families with children have no houses whatsoever to live in. They are living in with other families.

We have crowded conditions. We need money to build new homes, and also repair old homes until something better comes along. Some old homes leak when it rains.

And then another thing we do is we pay annually to the State of Iowa land tax. That has to be paid. It must be paid. It's a must.

And then, too, one-half of the funds from claims is programed as indicated before to community, to development. These moneys are programed into 10 different ways, all in all to alleviate and improve conditions that need correction.

Some families have no water system. They go miles to get water.

Then there is another problem which we have which needs correction, and that is sanitation. Due to these conditions, no water, sanitation is bad, home conditions are bad because there is no water whatsoever in some homes.

And then another thing which we would like to do with money from claims money, and that is land acquisition. We want to do this because we have a growing population at this time. We have only a little over 3,400 acres for the whole tribe, for the whole community. Divide this land by the number of families which we have, and a family would only get 29 acres for farming and gardening use. We just can't do any sizable farming on the number of acres which we have.

As indicated, we are programming a portion of our claims money for land acquisition to alleviate crowded conditions due to lack of space for our crops, gardens and homes, and such.

We are responsible to the Federal, State, and local authorities or agencies. We are not reservation Indians.

Then another thing we want to improve, and that is education for our young people. For higher education for our youth we need financial assistance. Federal funds, through BIA again, the last allotment for higher education was all gone in a few days, exhausted. We were told



there's no more money for college education. So, the majority of the applicants were told there were no more funds for them. That goes for vocational or trade school applicants—no more money. Many were denied what they wanted, college education and skilled training.

The tribe when it has money supplements what little was made available to these young people through Federal funding, through BIA. We believe our youth today are more determined today to make something out of themselves. They realize that in order to cope with the present situation as it is today, to cope with life's problems. With a little more education, with a little more help like that, I think that that can be accomplished.

But we cannot do this without sufficient funding. We are programming our claims money for this worthwhile endeavor for Indian use. Education is the main thrust today, along with other items which we have programed. And we cannot realize self-determination until we have the tools to work with, such as claims money.

Our tribe did not participate in the allotment act passed and approved by the Federal Government in the last century, as did the Oklahoma Indians.

We bought the land which we own today, pay tax on every acre we own. In our last payment of our claims, back in 1969, most of the families made good use of their share of the money by purchasing needed items, such as beds, stoves, furniture. And I say this is fine and good.

Of course, the children at that time bought a few bicycles, which is natural, because it made them happy. All of this was done with \$500 each, that each member received at that time. And also I might say this helped the economy at that time.

And then again I might say we maintain our road system, which is gravel, by using dilapidated machinery which we bought as used, surplus. We bought this equipment with our own money. It breaks down, yes, much too often, and is in constant repair. The roads are used by the public. School buses run on them, mail trucks, medical personnel, law enforcement agencies, and such.

We recommend then approval and passage of Senate bill 1953, using the 1891-92 allotment and annuity rolls as means to settle the question of fair distribution of awards given to the three Sac and Fox Tribes, with a suggestion for alternative purposes to use the 1909 census rolls.

I might say in closing we do not recommend, we do not approve, any other bill other than Senate bill 1953, using 1891-92 allotment annuity rolls for settlement on division.

Thank you, Mr. Chairman.

Senator BARTLETT. Thank you, Mr. Mitchell.

[The prepared statement of Mr. Mitchell as presented to the House committee follows:]

STATEMENT OF LOUIS MITCHELL ON BEHALF OF THE SAC AND FOX TRIBE OF THE MISSISSIPPI IN IOWA REGARDING THE DIVISION OF AWARDS OF THE INDIAN CLAIMS COMMISSION, JUNE 1975

There have been several bills before Congress presented previously to the past sessions and in the present 94th Congress relating to the division of the awards of the Indian Claims Commission in Dockets 219, 153 and 135, between the Sac and Fox of Iowa and the Sac and Fox of Oklahoma and, also, between the Sac and Fox of Oklahoma, Sac and Fox of Iowa and Sac and Fox of Missouri, Kansas and Nebraska.



This statement is in reference to a bill, H.R. 4016, introduced in the House of Representatives on February 27, 1975, by an Oklahoma delegation, namely, members of Congress. Mr. Steed, (for himself) Mr. English, Mr. Jarman, Mr. Jones and Mr. Risenhoover, in behalf of the Sac and Fox Tribe of Oklahoma. This bill was introduced and referred to the Committee on Interior and Insular Affairs.

The purpose of the bill is to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission Dockets 219, 153 and 135, and for other purposes.

The referred bill continues in Sec. 2(A) The funds in Dockets 219 shall be divided between the Sac and Fox Tribe of Oklahoma and the Sac and Fox Tribe of the Mississippi in Iowa, and the funds in Dockets 153 and 135 shall be divided among the Sac and Fox Tribe of Oklahoma, the Sac and Fox Tribe of the Mississippi in Iowa, and the Sac and Fox Tribe of Missouri in Kansas and Nebraska on the basis of the relative number of members of each tribe who were enrolled on or who were inadvertently omitted from Census Rolls as of January 1, 1937, and who are presently enrolled as members of their respective tribes, unless they are deceased.

The above-mentioned part Sec. 2(A) of the bill is the focal point of the objection of the Sac and Fox Tribe of the Mississippi in Iowa. To our understanding, the phrase "Who are presently enrolled" means the current membership of each tribe. This has been the grounds of the contention of the Iowa Sac and Fox Tribe. This is the position of the Oklahoma Sac and Fox and this has been supported by the Department of the Interior. We believe this is unfair, detrimental and damaging to the Iowa group if this position is upheld in the solution of the present problem. We cannot emphasize enough in our disapproval and rejection the terms set forth for a solution in Sec. 2(A) of the H.R. 4016. We recommend that this bill be not approved in its language in this section.

The Iowa group is and always has been in a position to compromise for suitable and fair settlement agreeable to all concerned parties.

We now give the reasons or grounds for our objection to use the formula as set forth in the Sec 2(A) of the H.R. 4016 as criteria for a division of funds in Dockets 219, 153 and 135 appropriated by Congress to the three Sac and Fox Tribes:

First, we are dealing with three distinct separate tribes or entities. In this light, the government might do well as it considers and tries to solve all cases dealing with the Indians. This can be done and a must. Due respect, honor, fairness, recognizing the dignity and sovereignty of other groups in their respective decisions is very important. And, in so doing, we eliminate as much as possible injustice to others. Along with this, the Sac and Fox of Iowa has a resolution certified and adopted in their subsequent meeting to recognize what was accomplished in the meeting of the three tribes held at Kansas City, Mo., on July 24, 1971. In this meeting, the purpose was to arrive at a distribution of Claims Docket 153. This was discussed at great length as it relates to enrollment criteria of the three groups and the result was when the vote was taken in favor of the following percentages for division of funds in Docket 153:

|                                                 |            |
|-------------------------------------------------|------------|
| Sac and Fox of Oklahoma-----                    | 46 percent |
| Sac and Fox of Iowa-----                        | 39 percent |
| Sac and Fox of Missouri, Kansas & Nebraska----- | 15 percent |

Subsequently, another meeting was held at Omaha, Nebr., on September 30, 1972, between the Sac and Fox Tribes of Missouri and Iowa. In this meeting, the two tribes reaffirmed the action taken at the Kansas City meeting. The question we would like to ask is: Do we honor these actions and results or do we just slash them aside and say, they are unworthy and dab them as irresponsible acts of the minority? We do not approve of the Sec. 2(A) of the H.R. 4016 as a solution for the division of funds in the Docket 153 appropriated for the three Sac and Fox Tribes.

Secondly, the enrollment criteria of these three tribes involved vary quite extensively from each other in their respective awards on current membership status of each tribe.

Thirdly, the end result from this wide variance in the enrollment standards in these tribes is the Indian Blood Quantum has been on the decrease within the last generation or two in the State of Oklahoma. This is unfair to others who have maintained Indian Blood quality in the highest level possible. This is not bigotry but only logic. The Sac and Fox of Iowa does not discriminate anyone not because they possess only one-half Indian Blood for enrollment but it does



enroll anyone whose father is an enrolled member of the tribe regardless of blood quantum. As the Bureau of Indian Affairs has indicated previously, the Sac and Fox of Iowa continues to use a patrilineal membership system which is traditional with them.

We, the Sac and Fox of Iowa, want to reiterate at this time what was said by them previously when they appeared before this Committee on July 9, 1970. Referring first to the Docket 219 (the other two Dockets 153 and 135, we will mention later), the Iowa Sac and Fox believe and take the position that their rights and those of the Oklahoma Sac and Fox became fixed and established when the Indian Claims Commission Act became law in 1946. The petition in Docket 219, as well as of those in all other Sac and Fox cases, were filed in 1951.

There were two bills introduced in the previous sessions of Congress. First, H.R. 1192 which apportioned the Docket 219 Award on the basis of 41.66% to the Iowa Sac and Fox, and 58.34% to the Oklahoma Sac and Fox. The Iowa Sac and Fox believe that the bill, H.R. 1192, should be approved. This is our position in this bill. The substitute bill proposed by the Bureau of Indian Affairs reducing the Iowa Sac and Fox share to 33.88% and increasing the Oklahoma Sac and Fox share to 66.12% and bill number, H.R. 1171, which divides the award on estimated present (current) day membership of the two tribes should not be approved.

Supported by Bureau recommendations, the Congress in 1967 divided the awards entered by the Indian Claims Commission in Docket 138 and 143 (Public Law 90-80 90th Congress, H.R. 10566, August 31, 1976 (81 Stat. 193)). Application of the data set forth in the supporting report by the Committee on Interior and Insular Affairs and the Bureau (H.R. Report 541, August 7, 1967) would establish 41.66%-58.34% ratio between the Iowa and Oklahoma Sac and Fox.

The Bureau thus opposed its earlier recommendation (in Report 541) and seeks to change that which, in 1967, was "the best evidence of the relative memberships of the three groups" referring to the 1891 and 1892 rolls of the several Sac and Fox Tribes.

The Bureau later recommended a drastic change in the ratio of division and new and different rule of division which had a very damaging result to the Iowa group and to the benefit of the Oklahoma group.

The division of awards in Docket 219, and all other cases determined by the Indian Claims Commission, should not be influenced by factual circumstances which culminate a period extending beyond the date at which the petitions were filed before the Commission.

It appeared that since the Act was passed in 1946 and since the claims of the three Sac and Fox Tribes were filed in 1951, efforts continuing into 1954, have been made to change the rights of the respective groups or tribes by substantially increasing the number of persons on the rolls of the Oklahoma group. What was done by the Oklahoma group seems to be the source of all our problems in settling the issue of how to divide the awards among the three Sac and Fox Tribes. We believe in sharing and helping in others' problems but this one is the problem of the Oklahoma Tribe that they have to bear themselves.

Apparently, the Bureau itself suggested sometime between 1948 and 1954 (after the Indian Claims Commission Act was passed in 1946) to the Oklahoma group that it could add a substantial number of members to the tribal roll. This was done, suddenly adding several hundred names to the Oklahoma rolls. The result of these actions should not now be permitted to change the rights of the two groups, attempting to help one to the detriment of the other.

At this time a large award has been granted in Docket 153 and a lesser award in Docket 135 to all three Sac and Fox Tribes. The previously proposed bill by the Bureau that would divide the funds in Docket 219 between the Sac and Fox of Oklahoma and the Sac and Fox Tribe of Iowa and would divide the funds in Dockets 153 and 135 among the Sac and Fox Tribe in Iowa, the Sac and Fox Tribe in Oklahoma, and the Sac and Fox Tribe of Missouri, Kansas and Nebraska, on the basis of the relative numbers of the members of the respective tribes who were enrolled or entitled to be enrolled on Census Rolls, as corrected, is equitable to each of the Sac and Fox Tribes with respect to each of the judgments of which they are joint beneficiaries. We have pointed out we believe that this system is wrong but, also, inequitable in the reasons we have cited. This can be said also of the present proposed bill, H. R. 4016, before the Committee in the House which the Iowa Sac and Fox disapproves



and rejects. This bill must not be approved on the grounds of the wide variance of the political structures of the three Sac and Fox Tribes.

In closing, may we present our proposal. We believe we are taking an intermediary position in so doing. The Department of the Interior was requested to give its view on this matter of division of awards to the three contending groups or tribes of the Sac and Fox Tribe. In this report to the Committee by the Department, it suggested for alternative steps for the Tribes to use in the settlement to divide their awards. First, there was current membership formula. Second, 1891-92 Allotment Annuity formula. Third, Official Base Rolls of 1937 and 1935 of the three tribes. Fourth, January 1, 1937, Census Rolls formula. And the last, the 1909 Census Rolls of the three tribes. We recommend and approve the using of the 1891-92 Allotment Annuity Rolls. This is our position.

As a tribe, we cannot think of anything else that is fairer than this for we see it as much as an equitable means of distribution (if not more) of monies awarded to the three Sac and Fox Tribes as others see their proposals. This is our proposal to use the 1891-92 Allotment Annuity Rolls formula. As you deliberate and decide on this matter, we hope and trust that you use all caution and wisdom as you come to a conclusion on division.

Thank you.

Mr. MILLS. Mr. Chairman, may I add something to my statement that I should have mentioned before?

Senator BARTLETT. Yes you may.

Mr. MILLS. These two bills pertain only to dockets 153 and 135. It seems to me that if any legislation is enacted it should include all the dockets that are now pending. I think it would save a lot of consideration of it's adopted for these dockets, and it should be for these ones which are not quite finished.

Senator BARTLETT. Mr. Mills, the Department thinks that's a good suggestion, too. They have suggested an amendment which, if adopted, would provide for inclusion of the four remaining dockets.

Mr. MILLS. Fine. Thank you.

I would also like to make one comment about what Mr. Mitchell just stated. He said they were not reservation Indians. By that he meant—and I think the chairman has got the point—that the land that they now have they bought with their own money. It wasn't land that was given to them by the Government or anybody else. They bought it with their own money.

And one further thing. I would like to make it a part of the record, the chart we prepared some years ago. I think the Commissioner's office has seen it, and I think it's relevant.

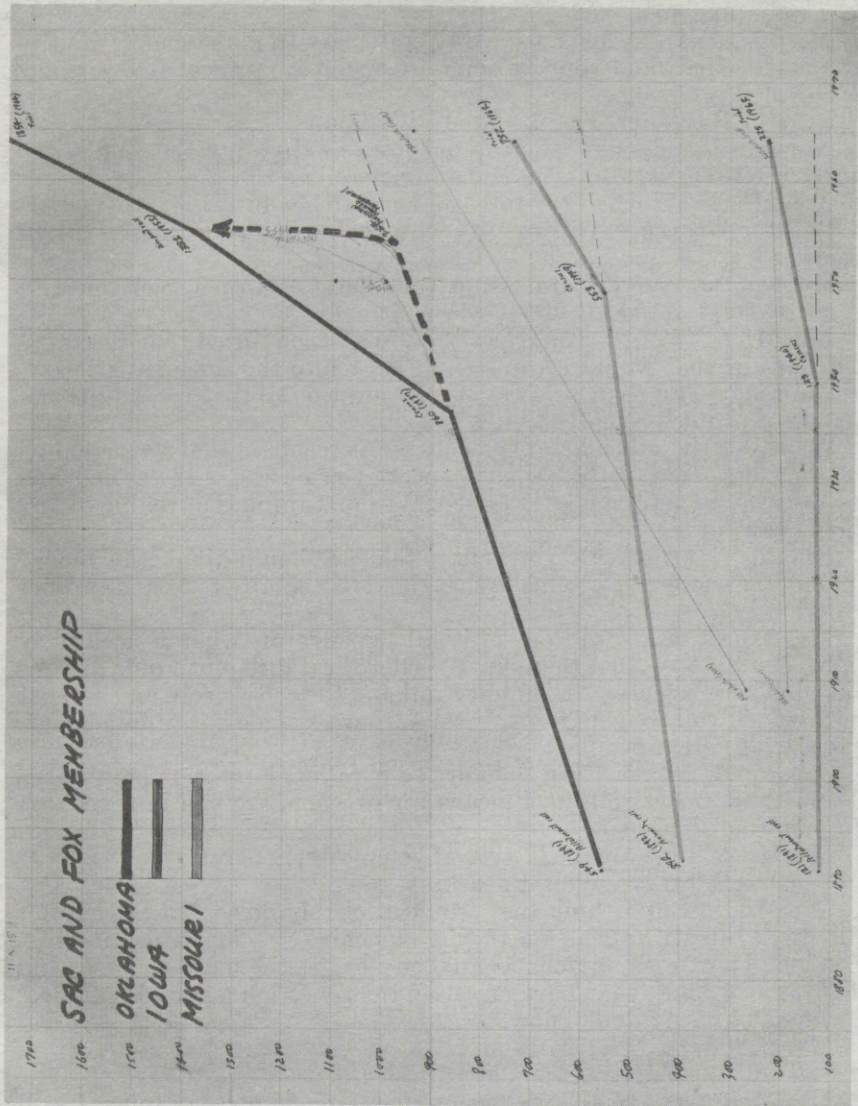
Senator BARTLETT. We will include that Mr. Mills.

Mr. MILLS. Thank you very much, Mr. Chairman.

That's all I have.

[The chart referred to follows:]







Senator BARTLETT. Mr. Keahnah, do you have other statements that you would like to make?

Mr. KEAHNAH. I don't have any statement to make, but I want to thank the Chair and your subcommittee who are present today, thank them all. Thank you.

Senator BARTLETT. Thank you Mr. Keahnah.

Now, as I understand it, for purposes of dividing the funds, you favor the 1891—92 allotment and annuity rolls.

Mr. MILLS. Which is set forth in that earlier bill, 1967, the act.

Senator BARTLETT. Did you say why you do not approve of the 1937 census?

Mr. MILLS. Are you addressing your question to me, Senator?

Senator BARTLETT. Anybody who can answer.

Mr. MILLS. Well, I would say this: We're convinced that the ramifications of that would lead us right back into the same situation we are in today, and that bill provides in addition to that roll additional names of people presently on it.

We think the other arrangement, the percentage that was adopted at the suggestion of the Department, if you please, is the easiest and fairest way to get the matter closed. We don't think that that is of any help to any of us.

Senator BARTLETT. Do you believe that we should divide this money among the successive groups so that the rolls actually reflect the proper rolls?

Mr. MILLS. Well, of course, it all depends on what is meant by "proper rolls," because there have been several different kinds of rolls taken. There has been the annuity roll and the census roll, and I'm not sure which roll we can go by, because they're made for different purposes by different people.

Senator BARTLETT. Even though you're taking a position here on the 1891—92 allotment rolls as a means for division, are you in a position to compromise from it?

Mr. MILLS. I'm only the lawyer, if you please, Senator.

Senator BARTLETT. Well, I'm asking—

Mr. MILLS. But I think they would probably do so. Now, I haven't discussed this with them, but they're amenable to compromise and discussion. They're as anxious as anybody to get the matter closed, and I think it would—they haven't raised that question among themselves as far as I know. I don't know.

Mr. MITCHELL. Mr. Chairman?

Senator BARTLETT. Yes, sir: Mr. Mitchell?

Mr. MITCHELL. In the statement that I made at the House I said there that we are most ready to compromise with other groups on this matter of distribution. We are in that position.

Senator BARTLETT. Thank you, Mr. Mitchell.

I have no other questions. Thank you.

Mr. KEAHNAH. Thank you.

Mr. MILLS. Thank you.

Senator BARTLETT. The next witness is Mr. Curtis Gilfillan. While he is coming up I would like to read my statement.



**STATEMENT OF HON. DEWEY F. BARTLETT, A U.S. SENATOR FROM  
THE STATE OF OKLAHOMA**

Senator BARTLETT. The two bills under consideration here today are similar measures to provide for the distribution of funds to pay judgments in favor of the Sac and Fox Indians in various Indian Claims Commission dockets.

One of the proposed measures, S. 1823, was introduced pursuant to the act of October 19, 1973, the Indian Judgment Fund Use or Distribution Act. The act provides that the Secretary of the Interior submit legislation in lieu of a distribution plan when he finds that circumstances preclude the submission of a distribution plan to Congress.

When I introduced the departmental proposal, it was with the hope that it might possibly serve as an equitable approach to the division of the judgment funds among the three Sac and Fox tribal groups.

Senator Robert Dole, my good friend and colleague from Kansas, has sponsored S. 1953 as another alternative to this complex controversy over the division of the Sac and Fox judgment funds.

Previous attempts to resolve this dilemma through legislation have proved to be unsuccessful; and, in this connection, I want to assure the Sac and Fox people that I am committed to the passage of legislation in the session of Congress to resolve the controversy.

I therefore hope the testimony presented today will clarify for me and the full committee members the issues involved so that the proposed legislation can be processed from this point on as expeditiously as possible.

Mr. Gilfillan, chairman of the Sac and Fox Tribal Council of Kansas and Nebraska, please proceed.

**STATEMENT OF CURTIS GILFILLAN, CHAIRMAN, SAC AND FOX  
TRIBAL COUNCIL OF KANSAS AND NEBRASKA**

Mr. GILFILLAN. Thank you, Mr. Chairman.

It is the consensus and recommendation of the Sac and Fox of Missouri that this distribution should be on the basis of the 1891 and 1892 allotments and annuity rolls and not on the basis of any current membership.

In our opinion the distribution based on 1891 and 1892 would be the most equitable. Earlier awards have been on that basis and were considered fair and equitable then and should be so considered now. Any deviation from the former plan of distribution might cast doubts on the validity of previous distributions.

We offer reference to the Sac and Fox distribution of 1967—see Public Law 90-80. Under that act the division between the three tribes was as follows: 36.91 percent to the Sac and Fox Tribe of the Mississippi in Iowa; 51.70 percent to the Sac and Fox Tribe of Oklahoma; and 11.39 percent to the Sac and Fox Tribe of Missouri in Kansas and Nebraska.

That distribution was apparently satisfactory to all concerned and it allowed for the differences in the membership between the three



tribes. If that basis was equitable then we see no justification for changing it now.

Any proposal to increase the percentage in favor of the current membership basis would tend to discriminate against the Sac and Fox of Missouri and the Sac and Fox of Iowa who would lose financially. Due to the more restrictive membership requirements of these two tribes their respective memberships have not increased substantially whereas a change in the membership requirements of the Sac and Fox of Oklahoma has resulted in an expanded enrollment and thereby increased the total number of tribal members.

The Sac and Fox of Missouri still base their membership on the original allotment rolls with a minimum of one-fourth Indian blood requirement.

Our position in regard to the present distribution is in favor of the percentage basis used in the 1967 distribution and previous distributions based on the 1891 and 1892 allotments and annuity rolls.

We do not favor using the current membership on the basis for this distribution. We feel that the past distribution ratio was more fair and equitable and set a precedent for future distributions.

A change to any other formula for this distribution would reduce the percentage for the Sac and Fox of Missouri and would in our opinion be discriminatory and inequitable in that it would penalize us for having a small membership due to our constitutional enrollment requirements.

Senator BARTLETT. Mr. Gilfillan, you mentioned that you objected to the current census as a basis for dividing the funds.

What is your attitude toward the 1937 census?

Mr. GILFILLAN. Well, I should have said "or the 1937." We feel just as much against the 1937 census as we do the current because the three tribes have three different ways of putting members on their rolls.

Our basis is for going back to the annuity rolls of 1891. If it was fair then it ought to be fair now.

Senator BARTLETT. Were the criteria different for the 1891-92 and the 1937?

Mr. GILFILLAN. I can't answer that for sure.

Senator BARTLETT. Do you have any other statements you care to make?

Mr. GILFILLAN. No. Just to sum up that we figure what was fair in 1967 ought to be fair now.

Mr. GERARD. Mr. Gilfillan, I just have one question: During the Commissioner's testimony, or his response to the allegation that the Oklahoma Sac and Fox had liberalized their enrollment to increase their rolls, he tried to explain from his standpoint what had happened at that time.

Do you accept that explanation or do you feel there is still an inflated enrollment for the Oklahoma group?

Mr. GILFILLAN. Well, I think—you have the record—but I think we have to look at it to show the amount of expansion for sure. I don't know the exact figures, but I know that they have increased a lot more than ours.

Mr. GERARD. All right. Thank you.



Senator BARTLETT. Mr. Gilfillan, does your group from Kansas and Nebraska feel that there's room for compromise? Are you willing to compromise on the 1891-92 allotment rolls which you favor?

Mr. GILFILLAN. Yes. We would meet and talk and try to work something out, we sure would.

Senator BARTLETT. Thank you very much, Mr. Gilfillan.

Our next witnesses are Mrs. Dora Schnexnider, chief, and Mrs. Mary McCormick, secretary, of the Sac and Fox Tribe of Oklahoma. Chief Schnexnider, would you introduce your council please?

**STATEMENT OF DORA SCHNEXNIDER, CHIEF, SAC AND FOX TRIBE OF OKLAHOMA; ACCOMPANIED BY MARY McCORMICK, SECRETARY; JOHN B. McCLELLAND, PRINCIPAL CHIEF-ELECT; AND AMOS BLACK III, TRIBAL ATTORNEY**

Mrs. SCHNEXNIDER. Thank you very much, Senator, and we're very happy to be here this morning to appear before the subcommittee on these bills.

Senator, I would like to take this time to introduce my whole Oklahoma delegation who accompanied me here, because the tribe went to great expense for all of us to be here. This is very important to us, and for the record I would like to introduce them.

Senator BARTLETT. I would be very happy to have them introduced.

Mrs. SCHNEXNIDER. Thank you.

On my left is Mrs. Mary McCormick, secretary-treasurer of the tribe.

On our far left is the principal chief-elect, John B. McClelland.

And then to my right is the tribal attorney, Amos Black III.

I would like to introduce my other delegation in the audience, and we're also accompanied by our superintendent at the Shawnee agency, Mr. John Taylor—and, Mr. Taylor, would you stand please? Thank you.

We have two councilmen also here with us today, Dick Thorpe—would you stand please, Dick? Thank you.

Jack Thorpe—Jack, would you stand?—Jack Thorpe, councilman.

Then we have Harry Walker, second chief-elect.

Mr. Carl Butler, councilman elect.

Miss Annette Miles, a tribal member.

Mervine Boswell, a tribal member.

We have Gail Thorpe here with us, also.

Miss Dagmar Seely, a tribal member.

And we have Miss Grace Thorpe here with us. She is a tribal member.

We do have Bob Delaware and Mercedes Lemis. I don't know whether they have arrived yet, but they intend to, I think.

Senator BARTLETT. Fine.

Mrs. Schnexnider, could you repeat the name of your attorney again? I didn't get it.

Mrs. SCHNEXNIDER. Amos Black III.

Senator BARTLETT. How do you spell that?

Mr. BLACK. A-m-o-s.

Senator BARTLETT. Oh, Amos. Is the last name Amos?

Mr. BLACK. No, that's my first name. Black.

Senator BARTLETT. OK, fine.



You may proceed as you wish.

Mrs. SCHNEXNIDER. All right, fine.

I do have a prepared short statement, a summary statement, and behind the statement I think we have submitted proper copies for the committee.

Senator BARTLETT. Yes, we have copies.

Mrs. SCHNEXNIDER. And we have seven attachments that gives quite a bit of background.

Senator BARTLETT. Your entire statement will be included.

Mrs. SCHNEXNIDER. Please enter that into the record, yes?

The three Sac and Fox Tribes named in the caption are the successors to the old Sac and Fox Nation. Most of the judgments awarded under the Indian Claims Commission Act relate to lands formerly owned by the Nation. The proper basis for dividing awards among the three present bands has been the subject of dispute for a number of years.

The position of the Oklahoma Sac and Fox has been that, since the claims belonged to the old Sac and Fox Nation, the awards are now owned by the successor tribes of the former nation and that therefore the awards should be divided among the three tribes based upon current or recent tribal rolls.

The other two tribes and the Department of the Interior agree that the division should be based upon population but contend that the populations as of an earlier date should be used in making the allocation.

The positions of the three Sac and Fox tribes and of the Department of the Interior, population statistics as of various dates, a critical analysis of that data, together with other information concerning the Sac and Fox Nation and its claims was set forth in a statement submitted by the Oklahoma Sac and Fox in 1970 to the Committee on Interior and Insular Affairs, House of Representatives, in connection with then-pending H.R. 1192 and H.R. 11771. A copy of that statement is presented with this statement and is identified as attachment No. 1.

At the time of the 1970 hearings, the Department of Interior proposed a division of awards on the basis of January 1, 1937, census rolls. The Oklahoma Sac and Fox objected to this division for the reasons set forth in the accompanying statement. See pages 14 and 15 of attachment No. 1.

S. 1953 proposes to divide the awards on the same basis as were dockets 138 and 143, which was the 1891-92 allotment and/or annuity rolls. I would like to state emphatically that the Oklahoma Sac and Fox never did agree on the division of dockets 138 and 143, as eventually enacted by Congress. See page 10 of attachment No. 1.

As further evidence to show that there was to be 5 percent withheld from each of the three tribes' shares in dockets 138 and 143, please see attachment No. 2. This resolution was adopted on May 7, 1966, in a joint meeting of the three tribes at Topeka, Kans. The Iowa Sac and Fox joined the Oklahoma Sac and Fox in adopting this approach, while the Kansas Sac and Fox objected.

At the Senate congressional hearings on May 10, 1967, the resolution adopted at Topeka, Kans., on May 7, 1966, was entered into the record. See attachment No. 3.

Had the Oklahoma Sac and Fox even suspected that the 5 percent was not going to be withheld from each tribe's share of dockets



138 and 143, they would have never consented to using the 1891-92 allotment and annuity records to divide those claims.

At the recent House subcommittee hearing on H.R. 4016, a companion bill to S. 1823, we were asked our views on the theory of dividing claims on the basis of the most accurate rolls nearest to the time of taking. We have no trouble with that approach, except the difficulty at this late date of determining the accuracy of the old rolls. We see that even with the 1937 census rolls, as recent as they are, there were some omissions.

Should this committee want to explore the possibility of using the older rolls as a method of division, we would refer you to the 1866-67 rolls. Those rolls, for the three tribes, were made after all the land takings being discussed here today and are the closest to the time of taking. Those rolls show the Oklahoma Sac and Fox with 69.69 percent of the total population, the Iowa Sac and Fox with 23.26 percent of the total population, and the Kansas Sac and Fox with 7.05 percent of the total population.

If the other two tribes want to use the old rolls as a basis for division, we will be happy to use the 1866-67 rolls. However, we must strenuously object to the use of the 1891-92 rolls as contemplated by S. 1953.

As stated earlier, the Sac and Fox Tribe of Oklahoma have always taken the position that the awards should be divided based on current memberships of the respective tribes. The other two tribes have objected to this approach, alleging that the Oklahoma Sac and Fox changed their Constitution, liberalizing the membership provisions so that many numbers could be enrolled and thus share in the awards.

Actually, the reverse is the case. Please see page 13, and especially the footnotes at the bottom of pages 13 and 14 of attachment No. 1.

In S. 1823, one of the bills presently before this committee, the Department of the Interior, while adhering to the 1937 census as a starting point for the division of the Sac and Fox awards, has accepted certain modifications to that roll. These modifications meet certain major objections of the Oklahoma Sac and Fox to the use of the 1937 census data in unmodified form.

The allocation of the Sac and Fox awards that will be made by S. 1823 is based upon the 1937 census roll as modified, and is in accordance with the recommendation of the Department of the Interior.

However, we strongly recommend amending section 2(a), page 2, lines 13 and 14, by deleting "who are presently enrolled as members of their respective tribes, unless they are deceased" and insert in lieu thereof: "who meet the qualifications for enrollments on the 1937 census rolls of their respective tribes."

If this change is not made, there could be some confusion as to the identity of the persons to be included in the totals to be used in dividing the judgment funds.

While the Oklahoma Sac and Fox are still not in total agreement with the division as proposed in S. 1823, in the spirit of attempting to reach a compromise with our relatives in the other two Sac and Fox tribes, we discussed this kind of an approach at a special general council meeting on June 15, 1974. After hours of deliberation, our general council voted by a 58-to-23 margin to accept such a proposal. See attachment No. 1.



The Oklahoma Sac and Fox believe that it is in the best interests of the three Sac and Fox tribes that the long controversy over the division of the claims awards be resolved, and that S. 1823 presents a reasonable compromise of the various positions taken by the parties. The Oklahoma Sac and Fox, therefore, support the passage of S. 1823.

At the annual general council meeting of our tribe on August 30, 1975, and we discussed the inclusion of dockets 83, 95, 158, and 231 in S. 1823. We were uncertain as to whether or not the appeal time had elapsed on docket 83. We thought the appeal time had expired on dockets 158 and 231. We knew that docket 95 was final.

The general council adopted a resolution—and please see attachment No. 7—to include dockets 95, 158 and 231 in S. 1832, and that docket 83 be included if it was later determined that the appeal time had expired.

We have now determined that the Oklahoma Sac and Fox will not appeal on docket 83. However, we have asked the U.S. Supreme Court for a writ of certiorari on dockets 158 and 231. Consequently, we ask that dockets 83 and 95 be included in S. 1823 and further that dockets 158 and 231 be included, without prejudice to our effort to obtain a writ of certiorari from the U.S. Supreme Court.

I am sure the distinguished members of this committee would be interested in how the Oklahoma Sac and Fox proposes to use our share of the funds from Dockets 135, 153 and 219. For this information please refer to Resolution SF-74-62, which was adopted by our general council on June 15, 1974, and is identified as attachment No. 5.

Also, I feel you would be interested in how we used the funds from our previous three claim awards. This information is included as attachment No. 6.

With your permission, I would like to call on our tribal secretary-treasurer, Mrs. Mary F. McCormick, to review this information for you.

And, Mr. Chairman, Mr. McClelland and Mr. Black also have statements that I desire to enter into the record.

Thank you. Mrs. McCormick.

Senator BARTLETT. Fine.

[The prepared statement of the Sac and Fox Tribes of Oklahoma follows:]



STATEMENT OF  
THE SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA  
IN RELATION TO S. 1823 AND S. 1953

18 September 1975

Allocation of Awards Among the Sac and Fox  
Tribe of Indians of Oklahoma, Sac and Fox Tribe  
of the Mississippi in Iowa, and The  
Sac and Fox Tribe of Missouri

The three Sac and Fox bands named in the caption are the successors to the old Sac and Fox Nation. Most of the judgments awarded under the Indian Claims Commission Act relate to lands formerly owned by the Nation. The proper basis for dividing awards among the three present bands has been the subject of dispute for a number of years.

The position of the Oklahoma Sac and Fox has been that, since the claims belonged to the old Sac and Fox Nation, the awards are now owned by the successor Tribes of the former Nation and that therefore the awards should be divided among the three Tribes based upon current or recent tribal Rolls. The other two Tribes and the Department of Interior agree that the division should be based upon population but contend that the populations as of an earlier date should be used in making the allocation.

The positions of the three Sac and Fox Tribes and of the Department of Interior, population statistics as of various dates, a critical analysis of that data, together with other information concerning the Sac and Fox Nation and its claims was set forth in a statement submitted by the Oklahoma Sac and Fox in 1970 to the Committee on Interior and Insular Affairs, House of Representatives, in connection with then pending H.R. 1192 and H.R. 11771. A



copy of that statement is presented with this statement and is identified as Attachment #1.

At the time of the 1970 Hearings, the Department of Interior proposed a division of awards on the basis of January 1, 1937 Census Rolls. The Oklahoma Sac and Fox objected to this division for the reasons set forth in the accompanying statement. (See page 14 and 15 of Attachment #1).

S. 1953 proposes to divide the awards on the same basis as were Dockets 138 and 143, which was the 1891 - 92 Allotment and/or Annuity Rolls. I would like to state emphatically that the Oklahoma Sac and Fox never did agree on the division of Dockets 138 and 143 as eventually enacted by Congress. (See page 10 of Attachment #1).

As further evidence to show that there was to be 5% withheld from each of the three Tribe's shares in Dockets 138 and 143, please see Attachment #2. This resolution was adopted on May 7, 1966, in a joint meeting of the three Tribes at Topeka, Kansas. The Iowa Sac and Fox joined the Oklahoma Sac and Fox in adopting this approach, while the Kansas Sac and Fox objected.

At the Senate Congressional Hearings on May 10, 1967, the resolution adopted at Topeka, Kansas on May 7, 1966, was entered into the record. (See Attachment #3). Had the Oklahoma Sac and Fox even suspected that the 5% was not going to be withheld from each Tribe's share of Dockets 138 and 143, they would have never consented to using the 1891 - 1892 Allotment and Annuity records to divide those Claims.

At the recent House Sub-Committee hearing on H.R. 4016,



a companion bill to S. 1823, we were asked our views on the theory of dividing claims on the basis of the most accurate rolls nearest to the time of taking. We have no trouble with that approach, except the difficulty at this late date of determining the accuracy of the old rolls. We see that even with the 1937 census rolls, as recent as they are, there were some omissions.

Should this committee want to explore the possibility of using the older rolls as a method of division we would refer you to the 1866 - 67 rolls. Those rolls, for the three tribes, were made after all the land takings being discussed here today and are the closest to the time of taking. Those rolls show the Oklahoma Sac and Fox with 69.69 per cent of the total population, the Iowa Sac and Fox with 23.26 per cent of the total population, and the Kansas Sac and Fox with 7.05 per cent of the total population. If the other two tribes want to use the old rolls as a basis for division, we will be happy to use the 1866-67 rolls. However, we must strenuously object to the use of the 1891 - 92 rolls as contemplated by S. 1953.

As stated earlier, the Sac and Fox Tribe of Oklahoma have always taken the position that the awards should be divided based on Current Memberships of the respective tribes. The other two tribes have objected to this approach, alleging that the Oklahoma Sac and Fox changed their Constitution, liberalizing the membership provisions so that many numbers could be enrolled and thus share in the awards. Actually, the reverse is the case. Please see page 13, and especially the footnotes at the bottom of



pages 13 and 14 of Attachment #1.

In S. 1823, one of the Bills presently before this Committee, the Department of the Interior, while adhering to the 1937 Census as a starting point for the division of the Sac and Fox awards, has accepted certain modifications to that Roll. These modifications meet certain major objections of the Oklahoma Sac and Fox to the use of the 1937 Census data in unmodified form. The allocation of the Sac and Fox awards that will be made by S. 1823 is based upon the 1937 Census Roll as modified, and is in accordance with the recommendation of the Department of the Interior. However, we strongly recommend amending section 2 (a) (page 2 lines 13 and 14) by deleting "who are presently enrolled as members of their respective tribes, unless they are deceased" and insert in lieu thereof "who met the qualifications for enrollments on the 1937 census rolls of their respective tribes." If this change is not made there could be some confusion as to the identity of the persons to be included in the totals to be used in dividing the judgment funds.

While the Oklahoma Sac and Fox are still not in total agreement with the division as proposed in S. 1823, in the spirit of attempting to reach a compromise with our relatives in the other two Sac and Fox Tribes, we discussed this kind of an approach at a Special General Council meeting on June 15, 1974. After hours of deliberation, our General Council voted by a 58 to 23 margin to accept such a proposal. (See Attachment #4).

The Oklahoma Sac and Fox believe that it is in the best interests of the three Sac and Fox Tribes that the long controversy over the division of the Claims awards be resolved, and that S. 1823



presents a reasonable compromise of the various positions taken by the parties. The Oklahoma Sac and Fox therefore support the passage of S. 1823.

At the annual General Council meeting of our tribe on August 30, 1975, we discussed the inclusion of Dockets 83, 95, 158, and 231, in S. 1823. We were uncertain as to whether or not the appeal time had elapsed on Docket 83. We thought the appeal time had expired on Dockets 158 and 231. We knew that Docket 95 was final. The General Council adopted a resolution, see Attachment #7, to include Dockets 95, 158, and 231 in S. 1823, and that Docket 83 be included if it was later determined that the appeal time had expired.

We have now determined that the Oklahoma Sac and Fox will not appeal on Docket 83. However, we have asked the U.S. Supreme Court for a Writ of Certiorari on Dockets 158 and 231. Consequently, we ask that Dockets 83 and 95 be included in S. 1823 and further that Dockets 158 and 231 be included, without prejudice to our efforts to obtain a Writ of Certiorari from the U.S. Supreme Court.

I am sure the distinguished members of this committee would be interested in how the Oklahoma Sac and Fox proposes to use our share of the funds from Dockets 135, 153, and 219. For this information please refer to Resolution SF-74-62, which was adopted by our General Council on June 15, 1974, and is identified as Attachment #5. Also, I feel you would be interested in how we used the funds from our previous three claims awards. This information is included as Attachment #6, and with your permis-



ion I would like to call on our Tribal Secretary-Treasurer,  
Mrs. Mary F. McCormick, to review this information for you.

Respectfully Submitted,

THE SAC AND FOX TRIBE OF INDIANS  
OF OKLAHOMA

By: Dora S. Schexnider  
Dora S. Schexnider  
Principal Chief



STATEMENT OF  
THE SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA  
SUBMITTED TO COMMITTEE ON INTERIOR AND  
INSULAR AFFAIRS, HOUSE OF REPRESENTATIVES  
IN SUPPORT OF H. R. 11771

The Sac and Fox Tribe of Indians of Oklahoma (the Oklahoma Sac and Fox) and the Sac and Fox Tribe of the Mississippi in Iowa (the Iowa Sac and Fox), as successors to the old Sac and Fox Nation, on September 29, 1967, recovered a judgment under the Indian Claims Commission Act in the amount of \$899,408.54 in Indian Claims Commission Docket 219, as additional compensation for reservation lands in Kansas which were sold or ceded by treaties concluded in 1859 and 1867. H.R. 11771 provides that the funds appropriated to pay this judgment shall be divided between the Oklahoma Sac and Fox and the Iowa Sac and Fox on the basis of the current membership in the two tribes.

Another pending bill, H.R. 1192, would provide for a division of the award in Docket 219 on the basis of 1891-1892 allotment and annuity rolls.

The Oklahoma Sac and Fox support the enactment of H.R. 11771 and are opposed to the enactment of H.R. 1192 for the reasons expressed in this statement.



By letter dated April 3, 1970, addressed to the Chairman of the Committee on Interior and Insular Affairs of the House of Representatives (referred to herein sometimes as the Department of the Interior letter), the Department of the Interior recommends that neither H.R. 11771 nor H.R. 1192 be enacted and that a substitute bill be enacted which would provide for the division of the award on the basis of the January 1, 1937 census rolls for the Oklahoma Sac and Fox and the Iowa Sac and Fox.

The Oklahoma Sac and Fox do not agree with the position taken by the Department of the Interior. The award which is the subject of H.R. 11771 and other awards which have been or which may be allowed to the Sac and Fox arise out of claims which, under the Indian Claims Commission Act, belonged to the old Sac and Fox Nation. That Nation no longer exists; these claims and the related awards therefore now belong to and should be shared equally by the persons who are the descendants of members of the former Sac and Fox Nation.

Distribution of the award on the basis of 1891-1892 rolls as provided by H.R. 1192 or on the basis of the 1937 census rolls as recommended by the Department of the Interior letter would result, as shown by the following table, in an inequitable division:



|                      | Popula-<br>tion | Distribution per Tribal Member |           |                                        |
|----------------------|-----------------|--------------------------------|-----------|----------------------------------------|
|                      |                 | H.R. 11771                     | H.R. 1192 | Dept. of<br>Interior<br>Recommendation |
| Oklahoma Sac and Fox | 1976            | \$ 326.47                      | \$ 265.54 | \$ 300.96                              |
| Iowa Sac and Fox     | 779             | 326.47                         | 480.99    | 391.17                                 |

The membership of the Oklahoma Sac and Fox is as of July 3, 1970 and for the Iowa Sac and Fox is as of May 1969. The dollar amount to be distributed in each instance will be reduced by attorneys' fees and allowable expenses and will be increased by the interest earned on the award.

Distribution of the Sac and Fox awards on the basis of the current membership in the present Sac and Fox bands, in the manner provided by H.R. 11771 is fair and equitable for all Sac and Fox Indians and is fully supported by the history of the old Sac and Fox Nation and by the nature and origin of its claims under the Indian Claims Commission Act.

The Former Sac and Fox Nation and The  
Three Present Sac and Fox Bands

The three present bands or tribes, the Oklahoma Sac and Fox, the Iowa Sac and Fox, and The Sac and Fox Tribe of Missouri (the Missouri Sac and Fox) are the successors to the old Sac and Fox Nation. The Missouri Sac and Fox did not at any time have any interest in the Kansas reservation lands



and therefore do not participate in the award in Indian Claims Docket 219 relating to those lands. However, that tribe will participate in the other Sac and Fox awards under the Indian Claims Commission Act which have not been distributed or which may result from claims which are still pending before the Indian Claims Commission, and for that reason the interest and position of the Missouri Sac and Fox is discussed in this statement.

The Sac and Fox were at one time separate and autonomous Indian tribes. After about 1735, for political and land ownership purposes, among others, they became a single entity sometimes known as the Confederated or United Sac and Fox Tribes of Indians or the Sac and Fox Nation. When the United States acquired its independence from Great Britain, the Sac and Fox had Indian title to lands in northwestern Illinois, southwestern Wisconsin, Iowa and northern Missouri. By a series of treaties which were made between 1804 and 1842, the Nation ceded these lands to the United States. The principal Sac and Fox claims under the Indian Claims Commission Act arise under these treaties and relate to these lands.

Shortly after the War of 1812, a small group of Sac and Fox Indians commenced to live apart from the balance of the Sac and Fox Nation. The separation was completed when this



group, the Missouri Sac and Fox, ceded its remaining interest in the Nation's lands by a treaty concluded in 1837, and the band agreed to move to a reservation on the Kansas-Nebraska border.

In 1845, the balance of the Sac and Fox Nation, having earlier ceded the last of its lands in Iowa, moved to a reservation in Kansas. Some members did not like Kansas, were opposed to the allotment system, and desired to retain their old tribal ways. This faction (now the Iowa Sac and Fox), which seems to have been largely composed of Fox Indians, gradually returned to eastern Iowa and commenced to purchase lands near the present town of Tama.

The remainder of the Sac and Fox Nation, referred to herein as the Oklahoma Sac and Fox, included most of the Sacs and also a sizeable number of Fox Indians. Historically, the Sacs were always more numerous than the Fox. In later years, one reason was that the Sacs, being the more progressive of the two tribes, accepted vaccination and other medical aids to a much greater extent than did the Fox. After the separation of the Missouri Sac and Fox and the Iowa Sac and Fox, the Oklahoma Sac and Fox continued to represent a large majority, usually about two-thirds, of the total Sac and Fox population and slightly more than 70% of the combined Oklahoma and Iowa Sac and Fox population.



The last of the Kansas reservation lands were ceded by the Sac and Fox Nation in 1867. As a part of this transaction, the Nation moved to a reservation in Oklahoma. A significant portion of the Nation, perhaps one-quarter of its population (sometimes known as Mokohoko's band) refused to leave Kansas, was opposed to allotments and education and health measures, and apparently hoped to establish a separate settlement in Kansas as the Iowa Sac and Fox had done in Iowa. Some of the members finally were persuaded to return to Oklahoma in 1891 when the Oklahoma lands were allotted to the members of the Oklahoma Sac and Fox and the balance of the lands were sold and the proceeds distributed to the members of the tribe. However, a considerable but unknown number of this group continued to live away from the Oklahoma reservation area and some of its members joined the Missouri Sac and Fox and the Iowa Sac and Fox.

Sac and Fox Claims Under The  
Indian Claims Commission Act

The Sac and Fox claims were the subject of fourteen proceedings before the Indian Claims Commission (Dockets 83, 95, 135, 138, 143, 152, 153, 158, 195, 209, 219, 220, 231 and 232). Docket 232 was a catch-all petition and has dismissed without recovery as a part of a settlement reached in Docket 138; re-



covery has been denied in Docket 135-A; and the claims in Dockets 195 and 220 concern only a single Sac and Fox band.

Docket 219 involved the claims of the Oklahoma Sac and Fox and the Iowa Sac and Fox to the Kansas reservation. Since the claims relating to these lands belonged to the former Sac and Fox Nation (excluding the Missouri Sac and Fox which had separated from the Sac and Fox Nation by the time the claims arose), the judgment of the Indian Claims Commission was in favor of the Oklahoma Sac and Fox and the Iowa Sac and Fox as the successors to the old Nation. Under the Indian Claims Commission Act the Commission does not have jurisdiction, at least it does not exercise jurisdiction, to allocate its awards as between present bands or among present-day tribal members.

Judgments have been received in favor of the Oklahoma Sac and Fox, the Iowa Sac and Fox, and the Missouri Sac and Fox in the amount of \$993,360.00 in Indian Claims Docket 135, \$1,246,533.42 in Docket 138, \$1,789,201.45 in Docket 143, \$10,621,282.66 in Docket 153, \$3,530,578.21 in Docket 158, and \$943,799.79 in Docket 231.\* Appeals have been taken which are pending in the United States Court of Claims from the judgments

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\* Any judgments recovered in Docket 83 and for the most part in Docket 95 (a petition for a general accounting) would be in favor of the three present bands as successors to the Sac and Fox Nation..



in Dockets 135, 158 and 231 and from the decision of the Indian Claims Commission denying any recovery in Docket 209. The judgments in Docket 138 and 143 have been distributed; the manner of their disposition is discussed subsequently in this statement.

A dispute exists among the Oklahoma Sac and Fox, the Iowa Sac and Fox and the Missouri Sac and Fox as to the proper basis for allocating the awards which have been and which will be recovered with respect to claims which belonged to the former Sac and Fox Nation.

The Oklahoma Sac and Fox contend that the awards should be allocated among the three bands upon a current membership basis, that is, in the manner contemplated by H.R. 11771; since the claims belonged to the old Sac and Fox Nation, they now belong to the descendants of members of the Nation, namely, the present population of the three bands.

Although the Missouri Sac and Fox represent only about 7% of the total present Sac and Fox population that band believes the awards in which it is interested should be divided equally, that is, one-third to each band.

The Iowa Sac and Fox assert that awards should be allocated in proportion to the membership of the three bands in 1891-1892, that is, in the manner provided by H.R. 1192. However,



these dates have nothing to do with the events which gave rise to the Sac and Fox claims which are the subject of Docket 219 or any of the other claims which belonged to the old Sac and Fox Nation.

The Disposition of Awards in Indian  
Claims Dockets 138 and 143

These awards have been distributed. It is the position of the Oklahoma Sac and Fox that the division was incorrectly made. The awards (\$1,246,533.42 in Docket 138 and \$1,789,201.45 in Docket 143) related to lands in western and northern Iowa which formerly belonged to the old Sac and Fox Nation and which were ceded by treaties concluded in 1830 and 1837.

A meeting of the business committees of the three bands was held in Topeka, Kansas, on May 7, 1966, in an effort to reach agreement on the disposition of the awards. At that meeting, the Missouri Sac and Fox contended that the awards should be divided one-third to each group; the Iowa Sac and Fox, that the awards should be allocated on the basis of 1891-1892 rolls; and the Oklahoma Sac and Fox, that since the claims belonged to the old Sac and Fox Nation the awards should be divided upon the basis of the current membership of the three bands.



Since the two awards were the first ones available for distribution to the Sac and Fox and because the claims had been pending for many years and since the Oklahoma Sac and Fox desired to make some of the recoveries available to their older people, the Oklahoma Sac and Fox finally proposed that the awards be tentatively and partially allocated on the basis of the 1891-1892 rolls, but that 5% should be withheld from the amount to be distributed to each band pending a final agreement or determination as to the proper basis for the allocation of the awards and that the proposed allocation should be without prejudice to the position of each band. A resolution was then tendered which contained this reservation. The business committees of the Oklahoma Sac and Fox and the Iowa Sac and Fox voted in favor of the resolution; the Missouri Sac and Fox voted against it.

Somewhere in the subsequent discussions, a slippage occurred: the provision for the creation of a 5% reserve became lost, the bills which were enacted to provide for the distribution of the judgments did not contain the reservation proposed by the Oklahoma Sac and Fox and the awards were distributed on the basis of the respective populations shown by the 1891-1892 rolls.



The Iowa Sac and Fox have at times contended that the disposition which was made of the awards in Dockets 138 and 143 constitutes a precedent for the allocation of all subsequent awards allowed the Sac and Fox. However, the Oklahoma Sac and Fox have not at any time agreed and at all times have objected to using the 1891-1892 rolls as a basis for distribution. Moreover, the Department of the Interior in its April 3, 1970, letter advised:

"But they [Department of the Interior and the Bureau of Indian Affairs] did not consider then and do not consider now that the use of the 1891-92 rolls as a basis for dividing the funds in dockets 138 and 143 established a precedent, with respect to the division of all other judgments which might be awarded to the Sac and Fox Tribes." (p. 7)

The Department of the Interior also advised:

"There is validity in the opinion of the Sac and Fox Indians of Oklahoma that the 1891-92 Allotment and Annuity rolls are not relevant to the claims in docket numbered 219, since they do not relate to the land sales on which the claims in the docket were based." (p.6)

Comparison of Population of Oklahoma  
Sac and Fox, Iowa Sac and Fox  
and Missouri Sac and Fox

No valid objection exists to a division of the Sac and Fox awards on the basis of the current membership in the three Sac and Fox bands. If membership is to be determined



as of sometime other than the present, then the only logical alternative would be to determine as nearly as may be the membership of each band at the time the particular claims arose and to effect a division on this basis. The claims involved in Docket 219 arose in 1859 and 1867. Annuity rolls showed that the Oklahoma Sac and Fox had a population of 791 as of June 30, 1866, and that the Iowa Sac and Fox had a population of 264 at June 1, 1867. On this basis the award in Docket 219 would be allocated approximately 75% to the Oklahoma Sac and Fox and 25% to the Iowa Sac and Fox. The Missouri Sac and Fox, the Iowa Sac and Fox and the Department of the Interior in its letter to this Committee each object to the allocation of the Sac and Fox awards on either a current membership basis or on the basis of membership at the various times the claims arose.

The Missouri Sac and Fox contend that the award should be divided equally among the three bands, that is, one-third to each band. That position is not tenable. As the Department of the Interior stated in its April 3, 1970 letter to this Committee:

"The Department of the Interior and the Bureau of Indian Affairs believed an equal division which ignored membership to be unfair." (p.7)

The Iowa Sac and Fox object to a division of the awards on the basis of current membership of the bands primarily on two



grounds, first, the Iowa Sac and Fox contend that as a result of an amendment made by the Oklahoma Sac and Fox to their membership criteria in 1954, after the Sac and Fox claims had been filed with the Indian Claims Commission, the population of the Oklahoma Sac and Fox increased disproportionately to and to the disadvantage of the Iowa Sac and Fox, and second, that the current membership of the two tribes cannot be used because of the differences in the membership criteria of the two tribes. The objections made by the Iowa Sac and Fox have no validity. The 1954 amendment to the Oklahoma Sac and Fox constitution imposed an additional requirement for membership, namely, that every child born after October 16 of that year must possess at least one-quarter degree of Sac and Fox blood in order to become a member of the Oklahoma Sac and Fox. Previously, the Oklahoma Sac and Fox constitution did not include a degree of blood requirement for membership. Contrary to the contention of the Iowa Sac and Fox, the 1954 amendment to the Oklahoma Sac and Fox constitution imposed an additional limitation and restriction which has the effect of contracting rather than expanding the band's membership.\*

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\* The Iowa Sac and Fox may have been confused as to the effect of the amendment because the population of the Oklahoma Sac and Fox about that time appeared to have increased sharply over previously published data. However, as appears from the population tables which appear



The Department of the Interior's objection to H.R. 11771 is the same as the second objection made by the Iowa Sac and Fox, namely, that the present membership of the two tribes should not be used as a basis for dividing the awards because of current differences in their membership criteria. The Department of the Interior proposes that a division be made on the basis of the 1937 census rolls for the two tribes because, according to the Department, the same criteria were used in preparing both census rolls.

There are three principal objections to the position taken by the Department of the Interior: First, the population of the Oklahoma Sac and Fox and the Iowa Sac and Fox at the time of the 1937 census has no relevancy to the claims involved in Docket 219.

Second, the use of population data for 1937 violates the principle that since the claims in Docket 219 belonged to the Sac and Fox Nation they should be divided equally among the persons who are presently the descendants of the members

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\* continued from page 13

later in this statement, this apparent increase was not disproportionate either with the other population data or in respect of the other tribes and is explainable by the fact that between 1937 and 1955 the tribal roll of the Oklahoma Sac and Fox was closed. When the roll was opened in 1955 and enrollment was again permitted in accordance with the tribe's constitution, various persons who were entitled to be enrolled during the period 1937 to 1955 for the first time were recorded as members of the Oklahoma Sac and Fox.



of the former Nation. A division on the basis of 1937 census rolls would result in a distribution of \$391.17 to each member of the Iowa Sac and Fox while the distribution to each member of the Oklahoma Sac and Fox would be only \$300.96 (see page 3 supra).

Third, while, as the Department of the Interior points out in its letter to this Committee, there are differences in the membership criteria of the Oklahoma and Iowa Sac and Fox bands, the conclusion that the Department draws from these differences - that a division based on the present membership of the two bands would be inequitable - is incorrect. The comparative effect of the different membership criteria on the population of the three bands is not stated or demonstrated by the Department of the Interior letter.

A comparison of the membership requirements and the population data at various dates strongly suggests that differences in membership criteria have not operated in the past and would not operate presently or in the future significantly to the advantage or disadvantage of any one band in relation to the other two bands and supports the view that a division of awards based on current membership would be equitable to all Sac and Fox Indians.



At one time the Missouri Sac and Fox had a territorial or residential limitation. However, this limitation has been removed insofar as distribution of claims awards to members of the Missouri Sac and Fox is concerned. Any child whose parent is a member can become a member; the Missouri Sac and Fox do not require that the child be of some minimum degree of Sac and Fox blood.

The Iowa Sac and Fox adopted a constitution in 1937 which provided that eligibility for membership can be acquired through only an enrolled father and the father must have been residing on the reservation at the time the person was born. Persons whose mothers are enrolled members may be adopted into the tribe provided they have resided on the reservation for five years. However, such persons are prohibited from holding tribal office and from participating in rewards recovered under the Indian Claims Commission Act. The Iowa Sac and Fox, like the Missouri Sac and Fox, do not require that a child be of some minimum degree of Sac and Fox blood.

In 1937, the Oklahoma Sac and Fox also adopted a new constitution. That constitution provided that the membership would consist of all persons enrolled as of January 1, 1937,



all children born after that date both of whose parents are members of the tribe, and any child who is of Sac and Fox Indian blood and who is born of a marriage between a member of the tribe and any other person if the child is admitted to membership by the tribal council.

In 1954 the Oklahoma Sac and Fox imposed an additional requirement of membership, namely, that every child born after October 16 of that year must possess at least one-quarter degree of Sac and Fox Indian blood to be eligible for enrollment and must also apply in writing for membership and may not be enrolled as a member of another tribe. However, under the amendment only one parent is required to be a member of the tribe. Also, persons born prior to October 16, 1954, of a marriage of a tribal member and any other person may be admitted to membership through action of the tribal council. Unlike the Iowa Sac and Fox, any person who is a member of the Oklahoma Sac and Fox is entitled to participate in Indian Claims awards.

If the Iowa Sac and Fox membership requirements are more restrictive than those of the Oklahoma Sac and Fox (and it is by no means clear that the differences in the membership criteria of the two bands would necessarily have a significant



net effect on their relative populations), this merely means that the Iowa Sac and Fox have seen fit to provide that only a portion of the Iowa Sac and Fox Indians are entitled to share in the Indian Claims awards; their action in this regard should not preclude the division of the Indian Claims awards on the basis of the present membership of the tribes.

The following population comparisons, first of the Oklahoma Sac and Fox and the Iowa Sac and Fox and then as to the three bands, show that a disposition of Indian Claims awards based upon the current membership of the bands would be fair and equitable and that the current population of the three bands is in line with the relative populations through the past 100 years with the exception of the years 1891 and 1892 and 1909 (the population for those periods being for the reasons set forth in this statement incorrect and incomplete) (the same dates are not used in both tables because of a lack of data):

Comparison of Oklahoma Sac and Fox and  
Iowa Sac and Fox Populations

| Dates   | Population |      |       | Percentages |       |
|---------|------------|------|-------|-------------|-------|
|         | Oklahoma   | Iowa | Total | Oklahoma    | Iowa  |
|         | S&F        | S&F  |       | S&F         | S&F   |
| 1866-67 | 791        | 264  | 1,055 | 74.98       | 25.02 |
| 1891-92 | 549        | 392  | 941   | 58.34       | 41.66 |
| 1909    | 536        | 352  | 888   | 60.36       | 39.64 |
| 1923    | 673        | 350  | 1,023 | 65.79       | 34.21 |
| 1930    | 887        | 344  | 1,231 | 72.05       | 27.95 |
| 1937    | 861        | 441  | 1,302 | 66.12       | 33.88 |
| 1950    | 996        | 504  | 1,500 | 66.40       | 33.60 |
| 1964    | 1,854      | 732  | 2,586 | 71.69       | 28.31 |
| 1967    | 1,894      | 785  | 2,679 | 70.70       | 29.30 |
| 1969-70 | 1,976      | 779  | 2,755 | 71.72       | 28.28 |



Comparison of Oklahoma Sac and Fox, Iowa Sac  
and Fox and Missouri Sac and Fox Populations

| Dates   | Populations     |             |                 |       | Percentages     |             |                 |
|---------|-----------------|-------------|-----------------|-------|-----------------|-------------|-----------------|
|         | Oklahoma<br>S&F | Iowa<br>S&F | Missouri<br>S&F | Total | Oklahoma<br>S&F | Iowa<br>S&F | Missouri<br>S&F |
| 1866-67 | 791             | 264         | 80              | 1,135 | 69.69           | 23.26       | 7.05            |
| 1891    | 549             | 392         | 113             | 1,054 | 52.09           | 37.19       | 10.72           |
| 1923    | 673             | 350         | 93              | 1,116 | 60.30           | 31.36       | 8.34            |
| 1937    | 861             | 441         | 123             | 1,425 | 60.42           | 30.95       | 8.63            |
| 1964    | 1,854           | 732         | 225             | 2,811 | 65.96           | 26.04       | 8.00            |
| 1967    | 1,894           | 785         | 189             | 2,868 | 66.04           | 27.37       | 6.59            |

The foregoing population data shows:

1. The data for the years 1891 and 1892 are most favorable for a division of the awards from the standpoint of the Iowa Sac and Fox and the Missouri Sac and Fox. Data selected as of any other period in time would be less favorable from the standpoint of those two tribes. Similarly, the years 1891 and 1892 are the least favorable from the standpoint of the Oklahoma Sac and Fox.

2. The Oklahoma Sac and Fox have had generally about two-thirds of the total Sac and Fox population. The Oklahoma Sac and Fox have had slightly more than 70%, and the Iowa Sac and Fox slightly less than 30%, of the combined Oklahoma and Iowa Sac and Fox population.

3. The 1937 census rolls advocated by the Department of the Interior give a relatively lower population for



the Oklahoma Sac and Fox and a relatively higher population for the Iowa Sac and Fox. However, both before and after 1937 the population ratios between the two tribes have ranged between 70.70% and 72.05% for the Oklahoma Sac and Fox and 27.95% and 29.30% for the Iowa Sac and Fox. The 1950 percentages of 66.40% for the Oklahoma Sac and Fox and 33.60% for the Iowa Sac and Fox are not accurate because the roll of the Oklahoma Sac and Fox was closed during the period and therefore the population for the Oklahoma Sac and Fox probably included only members enrolled in 1937 and those persons who lived in the Oklahoma area.

The population data for 1891-1892 and 1909 are undoubtedly inaccurate and incomplete. The Department of the Interior in its letter pointed out reasons why it believed that the annuity rolls in 1866 and 1867 were inaccurate (p.6). The same reasons would apply as to the later periods, 1891-1892 and 1909. Moreover, as previously noted, some portion of a dissident group of the Oklahoma Sac and Fox were living away from the reservation area (see page 6).

Also, the population data for the Oklahoma Sac and Fox are understated, probably in a significant amount, prior to 1955, because a large percentage of the Oklahoma Sac and Fox had left the old reservation area and had settled in various parts of the United States. Many members now live in Texas and Cali-



fornia. The Indian Bureau in its 1967 Report (pp.15, 19, Senate Report No. 531, 90th Cong. 1st Sess., August 18, 1967) noted that less than one-third of the members of the Oklahoma Sac and Fox lived within the area of the old reservation, that many members who had acquired advanced education and vocational training had left the area and that as a consequence much of the remaining membership consisted of middle-aged or older residents. After the adoption of the 1937 constitution, frequently some act would be required on the part of a potential member in order to become a member - either an application to or favorable action by the Sac and Fox Council or a written request for enrollment. For many years the Sac and Fox had no significant amount of tribal assets and between 1937 and 1955 the tribal roll was closed. As a result for many years there was no incentive for many persons who were eligible to become members of the Oklahoma Sac and Fox to take the necessary steps to do so. For these reasons, the membership of the Oklahoma Sac and Fox is generally understated, particularly in the years prior to 1955.

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The Oklahoma Sac and Fox believe that a division of the judgment award in Docket 219 in the manner contemplated



by H.R. 11771 is fair and equitable to all Sac and Fox Indians for the reasons set forth in this statement. The Oklahoma Sac and Fox therefore respectfully request that the Committee approve the enactment of H.R. 11771. .

Respectfully submitted,

THE SAC AND FOX TRIBE OF INDIANS  
OF OKLAHOMA

By Elmer Manatowa, Jr.  
Principal Chief



## [ATTACHMENT NO. 2]

SAC AND FOX NATION BUSINESS MEETING HELD MAY 7, 1966, HOTEL JAYHAWK,  
TOPEKA, KANS.

## RESOLUTION

*Be it resolved*, That the Sac and Fox Nation, acting through their Business Committees, their Principal Chiefs or other officers designated by the Business Committee, shall negotiate with each other for the purpose of reaching an agreement as to the division of awards made by the Indian Claims Commission in the proceedings referred to in this resolution as follows:

Docket No. 138, Cession 151—Western Iowa and northwestern Missouri

Docket No. 143, Cession 152—Northeastern and northcentral Iowa

That the Tribes hereby agree to a division of the awards which have been allowed in these cases among the Missouri Sac and Fox, the Iowa Sac and Fox and the Oklahoma Sac and Fox, and will be based on the following information:

|                                                                                                              |     |
|--------------------------------------------------------------------------------------------------------------|-----|
| Number of Sac and Fox Indians of Mississippi located in Oklahoma on allotment roll of February 13, 1891..... | 549 |
| Number of Sac and Fox Indians of Mississippi located in Iowa on annuity payment roll of 1892.....            | 392 |
| Number of Sac and Fox Indians of Missouri located in Kansas on allotment roll of February 28, 1891.....      | 121 |

That this division will be broken down into percentages, and

That 5 percent is to be withheld from each group until such time as the Bureau of Indian Affairs determines the most equitable basis for division, the current membership rolls, or the allotment and annuity rolls.

That if it is determined to be divided on a current membership basis, the 15 percent will be redistributed to the deserving groups.

That if it is determined to be divided on the allotment rolls and annuity roll the 5 percent will be returned to each group.

That percentages will be as follows:

[In percent]

|                              | Old rolls | Less 5 |
|------------------------------|-----------|--------|
| Tribes:                      |           |        |
| Sac and Fox of Iowa.....     | 36.91     | 31.91  |
| Sac and Fox of Oklahoma..... | 51.70     | 46.70  |
| Sac and Fox of Kansas.....   | 11.39     | 6.39   |
| Total.....                   | 100.00    | 85.00  |

That the foregoing authorization and any agreement as to the division of awards received in the above proceedings shall be subject to receiving the approval thereof by the membership of these Tribes.

That, subject to the foregoing, the officers of the Tribe shall be authorized to enter into, execute and deliver on its behalf such agreements with the Tribes and so or cause to be done such other acts and things as may be necessary and desirable to carry out the intent and purpose of this resolution.

Passed and approved this 7th day of May, 1966.

## CERTIFICATION

We, John Taylor, duly elected Chairman, and Peggy F. Southern, duly elected Recording Secretary, do certify that the meeting was properly noticed, called, convened and held on the 7th day of May, 1966 and that it was attended by three (3) members of the Sac and Fox Tribe of the Mississippi in Iowa, five (5) members of the Sac and Fox Tribe of Missouri, and five (5) members of the Sac and Fox Tribe of Oklahoma, that the above resolution was adopted by a vote of eight (8) in favor of the resolution and five (5) opposing the resolution, and that said resolution has not been amended or rescinded.

Signed this 7th day of May, 1966.

JOHN E. TAYLOR,  
Chairman.

Attest:

PEGGY SOUTHERN, Recording Secretary.



## ATTACHMENT NO. 3

[From the Congressional Record, May 10, 1967]

DISPOSITION OF FUNDS APPROPRIATED TO PAY CERTAIN JUDGMENTS  
OF THE SAC AND FOX INDIANS

Mr. HARRIS. Mr. President, for myself and Senator Monroney, I introduce for appropriate reference, a bill to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox of the Mississippi in Iowa and in Oklahoma, and the Sac and Fox of Missouri in Kansas and Nebraska in Indian Claims Commission dockets Nos. 138 and 143.

The Sac and Fox Nation was awarded judgments under docket 138 in the amount of \$1,096,533.42 and under docket 143 in the amount of \$1,789,201.45. This money has been appropriated, and is drawing interest at the annual rate of 4 percent.

On May 7, 1966, selected members of the business committees of each of the three Sac and Fox Tribes or Bands convened in Topeka, Kans., to discuss the division of these two judgments. After considerable discussion on the constitutions of each group with regard to membership within that tribe, a resolution was proposed and adopted by the delegates, and subsequently adopted by the General Council of the Sac and Fox Tribe of Oklahoma endorsing this legislation.

The bill I introduce would divide the judgments on the basis of the 1891 and 1892 rolls.

Mr. President, I ask unanimous consent to have a letter dated April 18, 1967, from the principal chief of the Sac and Fox Tribe of Oklahoma printed in the RECORD. In support of the bill, I also ask that the minutes and resolution of the Sac and Fox Nation dated May 7, 1966, and the portion of the minutes endorsing the resolution by the Sac and Fox Tribe of Oklahoma's general council meeting in Stroud, Okla., on August 27, 1966, be included in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the letter and resolutions will be printed in the RECORD.

The bill (S. 1750) to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox of the Mississippi in Iowa and in Oklahoma and the Sac and Fox of Missouri in Kansas and Nebraska in Indian Claims Commission dockets Nos. 138 and 143; introduced by Mr. HARRIS (for himself and Mr. MONRONEY), was received, read twice by its title, and referred to the Committee on Interior and Insular Affairs.

The letters and resolutions presented by Mr. Harrison are as follows:

## SAC AND FOX NATION

BUSINESS MEETING HELD MAY 7, 1966, HOTEL JAYHAWK, TOPEKA, KANS.

*Tribal officials*

Sac and Fox Tribe of the Mississippi in Iowa: Mr. George Youngbear, Chairman; Mr. Kenneth Youngbear, Treasurer, Mrs. Adeline Wanatee, Councilwoman.

Sac and Fox Tribe of Missouri: Mr. Charles Roubidoux, Chairman; Mrs. Dorothy Gilfillan, Secretary; Mr. Anthony Wapp, Vice Chairman; Mrs. Rita Bahr, Councilwoman; Mrs. Martha Morris, Councilwoman.

Sac and Fox Tribe of Oklahoma: Mr. Elmer Manatowa, Principal Chief; Mr. Henry Scott, Second Chief; Mrs. Peggy Southern, Secretary-Treasurer; Mr. Sam Morris, Councilman; Mr. George Harris, Councilman.

*Representatives from the Bureau of Indian Affairs*

Mr. Norman Holmes, Area Tribal Operations Officer, Anadarko, Oklahoma; Mr. John E. Taylor, Area Field Representative, Shawnee, Oklahoma; Mr. Hans Walker, Jr., Tribal Operations Officer, Minneapolis, Minn.; Mr. Raymond R. Wolf, Officer-in-charge Sac and Fox AFO, Tama, Iowa; Mr. Jim Roberts, Tribal Operations Officer, Anadarko, Oklahoma; Mr. Buford Morrison, Area Field Representative, Horton, Kansas.

Members of the Business Committees of the three Sac and Fox Tribes or Bands convened for a business meeting in Topeka, Kansas, May 7, 1966, for the purpose of discussing the division of judgments awarded in Docket 138 and Docket 143, and to try to agree on a proposal agreeable to each group as to the division of these judgments.

The meeting was called to order by the Chairman, Mr. John Taylor, there being present representatives from all three groups of Sac and Fox.



Thereupon the first item was the introduction of the various business committees, Bureau of Indian Affairs representatives and visiting attorneys.

Thereupon the Chairman gave a brief resume of events leading up to the present meeting today, advising the meeting was called to exchange ideas and to see if the groups can come up with something that will be acceptable to each other in order that they might be able to go to Congress with a Bill setting out the division of the claims, and ultimately lead to each group making use of their funds as its general council directs.

Thereupon, Mr. Elmer Manatowa, Principal Chief of the Sac and Fox of Oklahoma, requested the Bureau give some guidelines of what is needed by them and what should be accomplished today.

Tribal Affairs Officer, Mr. Norman Holmes, advised the Sac and Fox Nation has been awarded judgments under Docket 138 in the amount of \$1,096,533.42 and under Docket 143 in the amount of \$1,789,201.45. That this money has been appropriated is now in the U.S. Treasury drawing 4% interest. That each group should express their opinion and propose a division of this money to be submitted to the Commissioner of Indian Affairs.

Thereupon, the Chairman called for proposals from each group with a discussion to follow. The following proposals were made:

Mr. Charles Roubidoux, Chairman of the Sac and Fox Tribe of Missouri proposed the division be made  $\frac{1}{3}$  to each group. The Missouri band feels they have a greater equity in the area involved in these two dockets than did the other two groups, and based on this equity, they feel they are entitled to a larger share than they would receive if the groups use an old roll or a current membership in the division of the judgments.

Mr. Elmer Manatowa proposed the division be made on a current membership basis. The Oklahoma group feels every member of the Sac and Fox Nation should receive the same amount regardless of whether they live in Kansas, Iowa, Oklahoma, California or any other place, as long as they are members of one of the three groups of Sac and Fox involved in these judgments.

Mr. Kenneth Youngbear, Treasurer of the Iowa group, proposed the division be made on the Allotment rolls of 1891. The Iowa group feels that the increase in population of the Oklahoma group would make a division by any other means unfair to them.

Thereupon a general discussion was held on the constitution of each group with regard to membership within that particular Tribe.

To obtain membership with the Missouri group, a person must now reside within the Potawatomi area as set out in their constitution. No degree of Sac and Fox blood is involved, only the area in which a person resides. The Bureau has proposed they amend their constitution to allow a more fair enrollment. This action is pending. They now have 210 members.

To obtain membership in the Oklahoma group, a person must be at least  $\frac{1}{4}$  Sac and Fox of Oklahoma and have at least one parent on the tribal roll. They now have 1800 members.

Membership in the Iowa group is restricted to a pater lineal system. No degree of Sac and Fox blood is involved. They now have 768 members.

After discussions both pro and con by all groups, a stalemate seemed apparent.

Thereupon, Mr. Elmer Manatowa, still advocating a division on the current rolls, proposed a compromise amendment to the Iowa proposal. This proposal would divide the judgments on the basis of the 1891 and 1892 rolls and information as proposed by the Iowa group, but withholding from each group 5%. This 5% to be withheld until such time as a final determination is made by the Bureau, or by the Secretary. If it is determined to be divided on a current membership basis, then this 5% would be redistributed to the deserving group. If it is determined to be divided on old rolls, each group would get their 5% back. Percentages would be set out as follows:

| <i>Old rolls</i> |                         | <i>Less 5 percent</i> |
|------------------|-------------------------|-----------------------|
|                  | SAC AND FOX OF IOWA     |                       |
| 36. 91           | -----                   | 31. 91                |
|                  | SAC AND FOX OF OKLAHOMA |                       |
| 51. 70           | -----                   | 46. 70                |
|                  | SAC AND FOX OF KANSAS   |                       |
| 11. 39           | -----                   | 6. 39                 |
| 100. 00          |                         | 85. 00                |



Thereupon the motion was seconded by Mr. Sam Morris, and a roll call vote was taken. Eight votes were cast in favor of the motion and five votes were cast opposing the motion. Tabulation of the votes is listed below.

Mr. George Youngbear, Yea; Mr. Kenneth Youngbear, Yea; Mrs. Adeline Wana-tee, Yea; Mr. Elmer Manatowa, Yea; Mr. Henry Scott, Yea; Mr. Sam Morris, Yea; Mr. George Harris, Yea; Mrs. Peggy Southern, Yea.

Mr. Charles Roubidoux, Nay; Mrs. Dorothy Gilfillan, Nay; Mr. Anthony Wapp, Nay; Mrs. Rita Bahr, Nay; Mrs. Martha Morris, Nay.

Thereupon, the Kansas group was advised that since they were opposed to this division, they should submit their views to Washington outlining their opposition.

Thereupon, Mr. George Youngbear made a motion to retain the current organization with Mr. John Taylor as Chairman and Mrs. Peggy Southern as Secretary until the disposition of the 15% is settled. The motion was seconded by Mr. Kenneth Youngbear and it carried by a unanimous vote.

There being no further business, the meeting was adjourned.

PEGGY SOUTHERN,  
*Recording Secretary.*

#### SAC AND FOX NATION

BUSINESS MEETING HELD MAY 7, 1966, HOTEL JAYHAWK, TOPEKA, KANS.

#### *Resolution*

*Be it resolved*, That the Sac and Fox Nation, acting through their Business Committees, their Principal Chiefs or other officers designated by the Business Committee, shall negotiate with each other for the purpose of reaching an agreement as to the division of awards made by the Indian Claims Commission in the proceedings referred to in this resolution as follows:

Docket No. 138, Cession 151—Western Iowa and northwestern Missouri.

Docket No. 143, Cession 152—Northeastern and northcentral Iowa.

That the Tribes hereby agree to a division of the awards which have been allowed in these cases among the Missouri Sac and Fox, the Iowa Sac and Fox and the Oklahoma Sac and Fox, and will be based on the following information:

|                                                                                                                      |     |
|----------------------------------------------------------------------------------------------------------------------|-----|
| Sac and Fox Indians of Mississippi located in Oklahoma Allotment Roll of February 13, 1891. Number of allottees..... | 549 |
| Sac and Fox Indians of Mississippi located in Iowa Annuity Payment Roll of 1892. Number on payment roll.....         | 392 |
| Sac and Fox Indians of Missouri located in Kansas Allotment Roll of February 28, 1891. Number of allottees.....      | 121 |

That this division will be broken down into percentages, and

That 5% is to be withheld from each group until such time as the Bureau of Indian Affairs determines the most equitable basis for divisions, the current membership rolls, or the allotment and annuity rolls.

That if it is determined to be divided on a current membership basis, the 15% will be redistributed to the deserving groups.

That if it is determined to be divided on the allotment rolls and annuity roll that 5% will be returned to this group.

That percentages will be as follows:

| <i>Old rolls</i>        | <i>Less 5 percent</i> |
|-------------------------|-----------------------|
| SAC AND FOX OF IOWA     |                       |
| 36. 91 .....            | 31. 91                |
| SAC AND FOX OF OKLAHOMA |                       |
| 51. 70 .....            | 46. 70                |
| SAC AND FOX OF KANSAS   |                       |
| 11. 39 .....            | 6. 39                 |
| 100. 00                 | 85. 00                |

That the foregoing authorization and any agreement as to the division of awards received in the above proceedings shall be subject to receiving the approval thereof by the membership of these Tribes.

That, subject to the foregoing, the officers of the Tribe shall be authorized to enter into, execute and deliver on its behalf such agreements with the Tribes and so or cause to be done such other acts and things as may be necessary and desirable to carry out the intent and purpose of this resolution.

Passed and approved this 7th day of May, 1966.



*Certification*

We, John Taylor, duly elected Chairman, and Peggy F. Southern, duly elected Recording Secretary, do certify that the meeting was properly noticed, called, convened and held on the 7th day of May, 1966 and that it was attended by three (3) members of the Sac and Fox Tribe of the Mississippi in Iowa, five (5) members of the Sac and Fox Tribe of Missouri, and five (5) members of the Sac and Fox Tribe of Oklahoma, that the above resolution was adopted by a vote of eight (8) in favor of the resolution and five (5) opposing the resolution, and that said resolution has not been amended or rescinded.

Signed this 7th day of May, 1966.

JOHN E. TAYLOR,  
*Chairman.*

Attest:

PEGGY SOUTHERN,  
*Recording Secretary.*

SAC AND FOX TRIBE OF OKLAHOMA GENERAL COUNCIL MEETING, STROUD, OKLA.,  
AUGUST 27, 1966

In accordance with the Constitution and By-Laws of the Sac and Fox Tribe of Oklahoma. Article III Section I, and pursuant to a notice sent by members of the Business Committee to members of the Sac and Fox Tribe of Oklahoma, one hundred fifty eight (158) members convened for a general council meeting at the Sac and Fox reservation at Stroud, Oklahoma, August 27, 1966 for the purpose of discussing tribal business.

The meeting was called to order by the Second Chief Henry Scott, Reverend Sam Morris gave the invocation. Mr. Scott advised the Principal Chief would be unable to attend the morning session because of a funeral, but would preside after lunch. The secretary read the minutes of the last general council meeting and the minutes were approved as read.

... The next item on the agenda was a discussion of the joint meeting held in Topeka, Kansas between the three groups of Sac and Fox for the purpose of reaching an agreement as to the division of awards made by the Indian Claims Commission. Mr. Manatowa read the resolution which was voted on by the three groups and asked for a discussion and/or motion approving this resolution by the membership of the tribe. Mr. Levi Jones made the motion that this resolution be adopted by the membership of the tribe. Mable Harris seconded the motion. The motion carried by a vote of 112 in favor of the motion and none against. Resolution SF-67-4 is attached to these minutes.

PEGGY F. SOUTHERN,  
*Secretary.*

SAC AND FOX TRIBE OF OKLAHOMA

BUSINESS MEETING OF THE GENERAL COUNCIL, AUGUST 27, 1966

*Resolution*

Be it resolved that the Sac and Fox Tribe of Oklahoma accepts the proposed resolution approved in Topeka, Kansas by the Business Committee as to the division of awards made by the Indian Claims Commission in proceedings referred to as follows:

Docket No. 138, Cession 151—Western Iowa and northwestern Missouri.

Docket No. 143, Cession 152—Northeastern and northcentral Iowa.

That the Tribe hereby agrees to a division of the awards which have been allowed in these cases among the Missouri Sac and Fox, the Iowa Sac and Fox and the Oklahoma Sac and Fox, and will be based on the following information:

|                                                                                                                       |     |
|-----------------------------------------------------------------------------------------------------------------------|-----|
| Sac and Fox Indians of Mississippi located in Oklahoma. Allotment Roll of February 13, 1891. Number of allottees..... | 549 |
| Sac and Fox Indians of Mississippi located in Iowa. Annuity Payment Roll of 1892. Number on payment roll.....         | 392 |
| Sac and Fox Indians of Missouri located in Kansas. Allotment Roll of February 28, 1891. Number of allottees.....      | 121 |

That this division will be broken down into percentage, and

That 5% is to be withheld from each group until such time as the Bureau of Indian Affairs determines the most equitable basis for division, the current membership rolls, or the allotment and annuity rolls.

That if it is determined to be divided on a current membership basis, the 15% will be redistributed to the deserving groups.



That if it is determined to be divided on the allotment rolls and annuity roll that 5% will be returned to each group.

That percentages will be as follows:

[In percent]

|                              | Old rolls | Less 5 |
|------------------------------|-----------|--------|
| Tribes:                      |           |        |
| Sac and Fox of Iowa.....     | 36.91     | 31.91  |
| Sac and Fox of Oklahoma..... | 51.70     | 46.70  |
| Sac and Fox of Kansas.....   | 11.39     | 6.39   |
| Total.....                   | 100.00    | 85.00  |

That the business committee shall be authorized to enter into, execute and deliver on its behalf such agreements with the Tribes and so or cause to be done such other acts and things as may be necessary and desirable to carry out the intent and purpose of this resolution.

Passed and approved this 27th day of August, 1966.

#### *Certification*

We, Elmer Manatowa, Jr. Principal Chief of the Sac and Fox Tribal Business Committee and Peggy F. Southern, Secretary-Treasury of the Sac and Fox Tribal Business Committee do hereby certify that a regular meeting of the General Council was properly noticed, called, convened, and held on 27th day of August, 1966 there being a quorum present of 158 enrolled members and that the above resolution was adopted by a vote of 112 in favor and no votes against the resolution, and that said resolution has not been amended or rescinded.

Signed this 27th day of August, 1966

ELMER MANATOWA, Jr.,  
Principal Chief.  
PEGGY F. SOUTHERN,  
Secretary-Treasurer.

SAC AND FOX TRIBE OF OKLAHOMA,  
Cushing, Okla., April 18, 1967.

Senator FRED HARRIS,  
Senator MIKE MONRONEY,  
Representative TOM STEED,  
Capitol Office Building,  
Washington, D.C.

GENTLEMEN: On May 7, 1966 the three bands of Sac and Fox met in Topeka, Kansas for the purpose of reaching an agreement as to the division of awards made by the Indian Claims Commission dockets 138 and 143.

Funds were appropriated by the Act of April 30, 1965 (79 Stat. 81) to cover an award of \$1,096,533.42 in docket 138 and by the Act of October 31, 1965 (79 Stat. 81) to cover an award of \$1,789,201.45 in docket 143. The awards represent additional payments to the Sac and Fox of the Mississippi in Iowa and in Oklahoma and the Sac and Fox of Missouri in Kansas and Nebraska for lands in Iowa ceded under the Treaty of July 15, 1830 and for lands in western Iowa and northwestern Missouri ceded under the Treaties of October 21, 1837. The judgment funds are on deposit in the United States Treasury to the credit of the respective Sac and Fox Tribal groups and draw interest at the rate of four percent per annum.

The bill authorizes the judgment funds to be apportioned among the three groups, who are regarded to be the successors in interest to the Sac and Fox Nation as it existed in 1830 and 1837 on the basis of membership in the respective groups in accordance with allotment rolls of February 13, 1891 for the Sac and Fox of the Mississippi located in Oklahoma, 1892 annuity roll for the Sac and Fox of the Mississippi located in Iowa, and February 28, 1891 allotment roll for the Sac and Fox of Missouri located in Kansas.

The three Sac and Fox groups are organized under approved constitutions and by laws and represent political entities. The Bill provides that funds to which these tribes are entitled in dockets 138 and 143 may be advanced or expended for any purpose authorized by the respective tribal governing bodies. These tribes have retained allotted and/or tribally owned lands and members reside on such lands in substantial numbers. They can be assisted in the elevation of their social and economic conditions by use of judgment money.



Since the actions of the Business Committees need the approval of the respective general councils as set out in paragraph 8 of the resolution, we are attaching the approved minutes, plus the resolution passed by the Sac and Fox Tribe of Oklahoma last August 27, 1966.

We are very anxious to have this Bill introduced in the session of Congress and any help you can give us will be greatly appreciated.

Yours very truly,

ELMER MANATOWA, Jr.,  
*Principal Chief.*

ATTACHMENT NO. 4

RESOLUTION OF SAC AND FOX TRIBE OF OKLAHOMA  
SPECIAL GENERAL COUNCIL

STROUD, OKLA., JUNE 15, 1974

A Sac and Fox Tribe of Indians of Oklahoma General Council Resolution recommending that funds derived from Indian claims judgment Docket Nos. 153, 135, and 219, be divided among the eligible tribes on the basis of the 1937 Basic Membership Roll with adjustments.

Whereas, the Sac and Fox Tribe of Indians of Oklahoma is desirous of dividing the above mentioned funds in a fair and equitable manner, and

Whereas, there is a long history of tribal differences over what is just division among the three groups of remaining Sauks eligible to share in the various awards as listed above, and

Whereas, the Sac and Fox Tribe of Indians of Oklahoma believe the 1937 Sac and Fox Rolls, with adjustments while not the best division they desired, is acceptable: Now, therefore be it

**RESOLVED**, That special legislation be introduced in the U.S. Congress authorizing a division of the above mentioned funds on the basis of the 1937 Basic Membership Rolls, with adjustments.

Passed and approved this 15th day of June 1974, by the General Council by a vote of 58 Yes, and 23 No.

CERTIFICATION

We, Dora S. Schexnider, Principal Chief, and Mary F. McCormick, Secretary-Treasurer, of the Sac & Fox Tribe of Indians of Oklahoma do hereby certify that the above Resolution SF-74-61 to be a true and exact copy as approved by the General Council in a meeting held June 15, 1974.

DORA S. SCHEXNIDER,  
*Principal Chief.*  
MARY F. MCCORMICK,  
*Secretary-Treasurer.*

ATTACHMENT NO. 5

RESOLUTION OF SAC AND FOX TRIBE OF OKLAHOMA  
SPECIAL GENERAL COUNCIL

STROUD, OKLA., JUNE 15, 1974

A Resolution setting forth programming and per capita percentages for funds derived from Indian claims judgment awards for Nos. 153, 135, and 219.

Whereas, the tribal General Council met in a duly-called special meeting as provided in Article III—Section 2, on this day, June 15, 1974, for the purpose of discussing and taking action on division of the Claims awards, and

Whereas, it is the desire of the Sac and Fox Tribe of Indians of Oklahoma to distribute 80 percent of the above funds in a per capita payment and 20 percent to be used, and

Whereas, it is the further desire that the 20% be specifically invested in U.S. Treasury Notes, until the General Council can decide how to program it; Now, therefore be it

**RESOLVED**, That eighty percent (80%) of the Claims awards from Docket 153, 135, and 219 be distributed in a per capita payment to the enrolled tribal members, and twenty percent (20%) be reserved for tribal programming; and be it further

**RESOLVED**, That the twenty percent (20%) be invested, specifically, U.S. Treasury Notes, until the General Council can decide how to program it.

Passed and approved this 15th day of June 1974, by a vote of 64 Yes, and 0 No votes.



## CERTIFICATION

We, Dora S. Schnexnider, Principal Chief, and Mary F. McCormick, Secretary-Treasurer, of the Sac and Fox Tribe of Indians of Oklahoma do hereby certify that the above Resolution SF-74-62 to be a true and exact copy as approved by the General Council in a meeting held June 15, 1974.

DORA S. SCHNEXNIDER,  
Principal Chief.  
MARY F. MCCORMICK,  
Secretary-Treasurer.

[ATTACHMENT NO. 6]

STATEMENT OF THE SAC AND FOX TRIBE OF INDIANS OF OKLAHOMA  
IN SUPPORT OF H.R. 4016

*Tribal programming of claims funds*

The Sac and Fox Tribe of Oklahoma have never hesitated on programming a percentage of its Claims money. In fact, we have set the example in Programming, as neighboring tribes have requested our assistance in establishing programs for their Claims monies. Even today, the Sac and Fox Tribe of Oklahoma are still realizing financial assistance from the Tribal Program that was established from Docket 138-143, awarded in 1965. The benefits being enjoyed today are as follows:

Education:

|                 |      |
|-----------------|------|
| 8th Grade.....  | \$30 |
| 11th Grade..... | 40   |
| 12th Grade..... | 60   |

Health assistance:

|                   |     |
|-------------------|-----|
| Eyeglasses .....  | 30  |
| Dental Care ..... | 30  |
| Dentures .....    | 200 |

Burial assistance:

|                               |     |
|-------------------------------|-----|
| Burial Payment.....           | 200 |
| Cemetery Maintenance (3)..... | 600 |

This Tribal Program is provided from just the interest accrued each year from the programmed amount of Docket 138-143. This year, at the recommendation of the Business Committee, the General Council will be asked to approve a much-needed, expanded program that will include "hearing-aids," and increased amounts for each line item in the Program budget. Please note that this Tribal Program also includes the cost for maintenance care of our three tribal cemeteries which are located throughout the three counties that make up our jurisdictional area of service.

Another example of the Sac and Fox Tribe of Oklahoma in not hesitating to Program its Claims monies, is the new Tribal Community Building that is even now being constructed on the tribal trust land, located 4½ miles of Stroud, Oklahoma at a cost to the Tribe of \$100,000. This amount will be paid "in cash" from the programming of a previous Claims award, Docket 220. This new Community Building being constructed is a Butler Pre-engineered metal building (80' w x 100' l x 16' h, eave), air-conditioned, and with kitchen facilities, and a stage. (See attachment A).

Gentlemen, I also want to report that with the Revenue Sharing funds, the Tribe has constructed an open-air Pavilion, 80' x 60'. The Pavilion allows the Pow-Wow Committee to hold it's afternoon Program under the shade, away from the hot sun. While not in use, the 'arts and craftsmen' then use the Pavilion as a place to exhibit and sell their work.

Regarding the programming of the Claims awards that is now before us, please be advised that the Sac and Fox Tribe of Oklahoma, have by resolution, already voted and approved to "program" 20% of the Claims awards. (See Attachment #5). Furthermore, on February 8, 1975 this past Spring, the General Council did pass, upon the recommendation of the Business Committee, a Comprehensive Multi-Year Tribal Plan, that outlines short-range goals to meet immediate needs of the Tribe, as well as long-range goals for economic development of the tribe's resources of land, water, man-power, and financial assets. Careful planning and studies have already been set in motion to be prepared to implement the approved Tribal Plan when the funds become available. (See Attachment B.)



For example, one of the primary resources of the Sac and Fox Tribe of Indians of Oklahoma is its tribal lands. Three factors contribute to the future development of the Sac and Fox tribal trust lands. They are:

(1) Ideally located between two major cities—Oklahoma City (the Capital), and Tulsa (the second largest city).

(2) Ideally located between two major Inter-state Highways, I-40 and I-44.

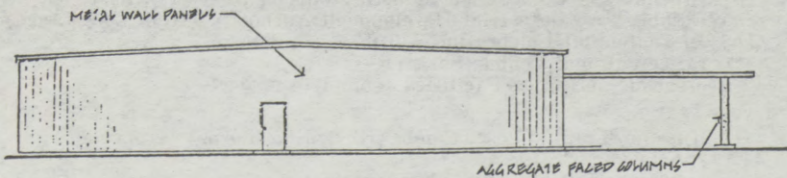
(3) Oklahoma State Highway #99 crosses directly through the tribally-owned trust property.

The tribally owned trust lands consist of 802 acres located in Lincoln County,  $4\frac{1}{2}$  miles south of Stroud, Oklahoma.

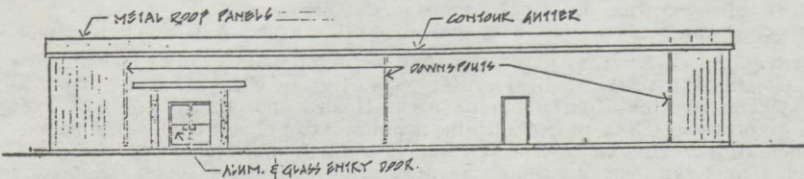
Other areas of concern to the Tribe is the preservation of its language and culture. By next week, the first draft of a Primer Book of the Sauk language will be completed, and subsequently published. Also, to celebrate the Bi-centennial next year, the Sac and Fox Tribe plan to present a drama about the trip to Oklahoma from their former lands in Iowa and Kansas, along with the annual Pow-Wow in July that the Tribe sponsors.

Therefore, gentlemen, the Sac and Fox Tribe of Oklahoma have definite plans of what to do with their share of the Claims awards it will be receiving.

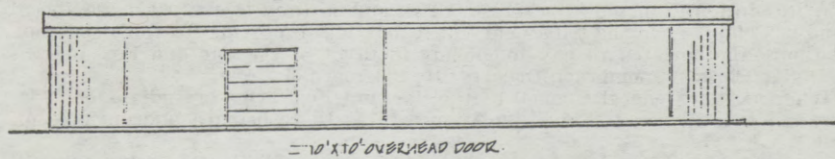
#### ATTACHMENT A



END ELEVATION (WITH WALK DOOR)



FRONT ELEVATION

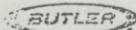


BACK ELEVATION

SAC AND FOX OF OKLAHOMA COMMUNITY BUILDING

SHEET 2 OF 2

AZTEC BUILDING SYSTEMS, INC.  
136 THOMPSON DR. -- P.O. BOX 430  
NORMAN, OKLAHOMA 73069  
PH. 405/329-0255



FRANCHISED BUTLER BUILDER



## ATTACHMENT B

SAC AND FOX TRIBE OF OKLAHOMA GENERAL COUNCIL,  
FEBRUARY 8, 1975, STROUD, OKLA.

## First year:

- (a) Water Line and Sewage Disposal
- (b) Establish tribal offices
- (c) Land Acquisition (both near reservation/and for income)
- (d) Tribal Community Building
- \*\* (e) Recreational-Vehicle Park (R-V Park)
- Recreation Activities/Facilities
  - (1) Volley-ball court
  - (2) Basketball court
  - (3) Swings, slides, teeter-totters
  - (4) Softball diamond
  - (5) Tennis
  - (6) Pool tables

## Second year:

- (f) Computerize 'manpower' information: education, skills, talks
- (g) Brochures—(Color: lure industry/tourism to reservation)
- (a) Establish an Industrial Development Authority (from Long-range)
- (h) Bi-Centennial Celebration—1976
- \*\* (e) Recreational-Vehicle Park (R-V Park)
- Recreation Activities/Facilities (complete projects)

## Third year:

- (i) Museum/Trading Post (Can be tribal/Jim Thorpe) (from shop)
  - (1) Arts and Crafts
  - (2) Indian Hall of Fame, also Athletic
  - (3) Authentic Sauk Village—Trading Post
- (f) Unemployment/Employment
- (g) Continuous Education—for both young and old
- (h) Preservation of Tribal Language/Culture
- (i) Paved streets, sidewalks, paved parking areas, & wheelchair ramps.

*Over five years.*—Hunting lodge, Baseball camp, Bowling alley, Housing for aged (Senior Citizens), Medical center supporting dwelling area, Transportation system, Skating rink, Shopping area, Health spa, Rodeo grounds, Post office, Improve on EDA project, Riding stables, Trap shoot, 9-hole golf course, Summer athletic clinic, Motel or Hotel-restaurant, Laundramat, Canoeing dock, Church chapel (all denominations), Security of development complex, and Storm shelter

## [ATTACHMENT No. 7]

## RESOLUTION OF SAC AND FOX TRIBE OF OKLAHOMA, GENERAL COUNCIL MEETING

A Resolution to include Dockets 158, 231, and 95 (and Docket 83 if the appeal time has elapsed) in the tribe's current legislation to provide for the disposition of funds appropriated to pay judgments in favor of the Sac and Fox Indians in Indian Claims Commission Dockets 219, 153, and 135.

Whereas, the General Council of the Sac and Fox Tribe of Indians of Oklahoma met in session this day, 30 August 1975; there being a quorum present, and

Whereas, the General Council did consider the possibility of including additional completed dockets awarded to the tribe for Land Claims, in their current legislative Bills S. 1823 and H.R. 4016), and

Whereas, the General Council were in favor of this action; with the direction that Docket 83 be excluded if the appeal time has not elapsed: now, therefore be it

*Resolved*, That the General Council of the Sac and Fox Tribe of Indians of Oklahoma do hereby approve action and make known that Dockets 158, 231, and 95 be included in the Tribe's current legislation (S. 1823 and H.R. 4016) to provide for the disposition of funds appropriated to pay judgments in the favor of the Sac and Fox Indians in Indian Claims Commission Dockets 219, 153 and 135; and be it further



*Resolved*, That Docket 83 also be included in the Tribe's current legislation if there is no appeal.

Passed and Approved this 30th day of August 1975, by a unanimous vote of 99 Yes, and 0 No votes.

#### CERTIFICATION

We, Dora S. Schexnider, Principal Chief, and Mary F. McCormick, Secretary-Treasurer of the Sac and Fox Tribe of Indians of Oklahoma do hereby certify that the above Resolution SF-76-14 is a true and exact copy as approved by the General Council in their annual meeting held 30 August 1975.

DORA S. SCHEXNIDER, *Principal Chief*.

MARY F. MCCORMICK, *Secretary-Treasurer*.

Senator BARTLETT. Mrs. McCormick, proceed.

#### STATEMENT OF MARY MCCORMICK, SECRETARY, SAC AND FOX TRIBE OF OKLAHOMA

Mrs. McCormick. Thank you, Senator.

If you will turn to attachment No. 6 at the back of our report to you, the Sac and Fox Tribe of Oklahoma has never hesitated on programing a percentage of its claims money. In fact, we have set the example in programing, as neighboring tribes have requested our assistance in establishing programs for their claims moneys.

Even today, the Sac and Fox Tribe of Oklahoma are still realizing financial assistance from the tribal program that was established from a previous docket, docket No. 138-143 awarded in 1965.

The benefits being enjoyed today are: in education, we give an incentive payment to those tribal members who successfully complete the 11th grade, 8th grade and 12th grade.

We also provide assistance in the health area by giving some financial assistance in the purchase of eyeglasses, dental care, and dentures.

And then we have a burial assistance program, where we help in the amount of \$200 for a tribal member who is deceased. And then we have a cemetery maintenance whereby we maintain three tribal cemeteries and upkeep.

This tribal program is provided from just the interest accrued each year from the programed amount of docket Nos. 138-143.

And this past year, at the general council meeting, the business committee did recommend to the council that we take another hard look at the tribal program, and perhaps increase these benefits financially. We tabled that action at that time. It was late in the day.

Another example of the Sac and Fox—excuse me, Senator. I'm told to speak louder—Another example of the Sac and Fox Tribe of Oklahoma in not hesitating to program its claims money is the new tribal community building that is now constructed and is located on our reservation, south of Stroud, Okla. 4½ miles south on Highway No. 99.

This new building will cost the tribe approximately \$100,000 and will be paid for upon completion, and everything will be paid for. We will owe nothing on the building. And this community building comes from a previous claims docket No. 220.

This new community building being constructed—that has been constructed—is a Butler preengineered metal building, 80-by-100-by-16 feet high. It's air-conditioned and it does have kitchen facilities and a stage. And we have a picture of that building attached, too.



We call to your attention that the tribe has constructed an open-air pavilion 80 by 60 feet, and this pavilion allows the pow-wow committee, especially that group, to hold its afternoon program under the shade, away from the hot sun. And while they are not using it, why the arts and crafts people of our tribe, they use the pavilion as a place to exhibit their arts and crafts. So, it's a facility that is very much used and was needed by the tribe.

Regarding the programing of the claims awards that is now before us, please be advised that the Sac and Fox Tribe of Oklahoma have a resolution already voted and approved to program 20 percent of the claims awards. And this is attachment No. 5, and I think it is listed out very nicely, of where you can get a good picture of what the tribe hopes to accomplish.

Furthermore, on February 8, 1975, this past spring, the general council did pass, upon the recommendation of the business committee, a comprehensive multiyear tribal plan that outlines short-range goals to meet immediate needs of the tribe, as well as long-range goals for economic development of the tribe's resources of land, water, manpower and financial assets.

The tribe has already spent time and done some careful planning and studies have already been set in motion to be prepared to implement the approval tribal plan when the funds become available.

I think one of our primary resources of the Sac and Fox Tribe of Indians of Oklahoma is its lands. And three factors contribute to the future development of our lands in Oklahoma:

No. 1, we are ideally located between the two major cities in Oklahoma, Oklahoma City, the capital; and Tulsa, the second-largest city.

Our tribal lands are ideally located between two major interstate highways, Interstate No. 40 and Interstate No. 44.

And, number three, our tribal lands are ideally located because Highway No. 99 crosses directly through our trust property.

The tribally owned trust lands consist of approximately 802 acres located in Lincoln County, south of Stroud, Okla.

Other areas of concern to the tribe now are the preservation of its language and culture. Presently, right now, we have completed a draft of our primer book and it is ready for publication. The primer book is on the Sac and Fox language, and we're looking forward to having this primer book published, which will help us to regain our language and to help us to communicate once again in our native language.

Therefore, Senator, I hope with this short statement the subcommittee will know that the Oklahoma Sac and Fox tribe, that the Sac and Fox Tribe of Oklahoma, have definite plans for what they hope to be doing with their claims money.

Senator BARTLETT. Mrs. Schnexnider?

Mrs. SCHNEXNIDER. Mary, do you have something on enrollment that you want to—

Senator BARTLETT. I don't think we can—

Mrs. SCHNEXNIDER. I was wondering if Mary wanted to comment on enrollment also at this point.

Senator BARTLETT. Mrs. McCormick?

Mrs. MCCORMICK. In the testimony that we have heard this morning, so many comments have been made about our large enrollment, and perhaps we need to direct some comments towards this.



Yes, we have a large enrollment because we are the main tribe, we are the primary tribe of the Sac and Fox Nation. We ended up in Indian territory—and not by choice. I would like to bring that to the committee's attention.

I think the Oklahoma Sac and Fox have worked diligently and cooperatively with the Federal Government in being moved to what is now Oklahoma, and we are the large tribe. We don't deny that.

There are other things that have increased our enrollment in the year that seems to be an issue, of 1954. Several things happened to increase our rolls significantly at that time:

One, during 1937 and 1954 there was no great demand for any need for us to maintain a—to keep an enrollment effort going between those years—and in the 1950's when the claims money then was before us and the tribe was aware that they would be getting some funds, then efforts were made to compile a current membership roll.

In reviewing the 1937 roll and trying to determine how best to go about bringing our rolls up-to-date, several things were found:

No. 1, there were many people who were left off the 1937 census roll who very much met the criteria for being enrolled at that time. For example, I stand as an example of that person of that group, not being on the 1937 roll, although my mother is full-fourth and she had five children, she only had one child listed on the 1937 roll, who was fourth, the fourth down the list. So, it was—in other words, this one child, the only child that was picked up on the 1937 roll had three previous older sisters and brothers ahead of her.

Why only this child was picked up we cannot answer. We don't know what the problem was. Perhaps it was mother's fault. Certainly, perhaps, she should share some of the blame. Maybe it was the Bureau's fault. But, whatever, there were many of us who were left off the 1937 roll, and it is this that the general council last year did agree—this was our compromise—to accept the 1937 roll, as adjusted, as we could count on that roll as a means for dividing the claims, which is nothing but fair, I do believe.

We do have those names of those people in my instance who were left off that 1937 roll, so we know who they are, and it is not arbitrarily going out and getting in people from off the street, so to speak. It is members who had every right to have been listed on the 1937 roll.

Second, our roll has increased and has increased due to the fact that we have tribal members who possess Kansas Sac and Fox blood and Iowa Sac and Fox blood, but who elected to be identified as an Oklahoma Sac and Fox. And so these people have been picked upon our rolls, and they now—I would say they number approximately 70.

In another instance, we have a young man who came before the tribe seeking enrollment and was denied because his mother wasn't enrolled with Sac and Fox blood, and he could not meet the requirements for our enrollment criteria and consequently he was denied membership with the Oklahoma Sac and Fox.

But the people enrolled with our Oklahoma Sac and Fox Tribe had that right to choose which tribe they wished to be identified with, and these people did choose to be identified with the Oklahoma Sac and Fox, and so certainly they have—they are members of the Oklahoma Sac and Fox Tribe.



Senator BARTLETT. Mrs. McCormick, if you will excuse me, I would like to recess the hearing at this point for about 5 or 10 minutes.

Two things have come up: One, I was advised that all the Democratic Senators are asked to be on the floor for the swearing-in of Senator Durkin. That's not my problem, but I do want to recess for about 5 or 10 minutes then we'll resume right where we are.

Mrs. SCHNEXNIDER. Thank you, Mr. Chairman.

[Whereupon, a short recess was taken.]

Senator BARTLETT [presiding]. Mrs. Schnexnider, we shall continue. I don't know whether Mrs. McCormick wanted to continue or if she is finished.

Mrs. SCHNEXNIDER. She told me she was through.

Senator BARTLETT. Well, she was finished with her part?

Mrs. SCHNEXNIDER. Yes.

Mr. McClelland?

Senator BARTLETT. Mr. McClelland, you'll need to use the microphone if we are to hear you.

Mr. McCLELLAND. Thank you.

Mr. Chairman, I have a brief statement here which I will read. It's short.

Senator BARTLETT. That will be fine.

#### STATEMENT OF JOHN B. McCLELLAND, PRINCIPAL CHIEF-ELECT OF THE SAC AND FOX TRIBE OF OKLAHOMA

Mr. McCLELLAND. I am John B. McClelland, principal chief-elect of the Sac and Fox Tribe of Oklahoma. Our currently elected principal chief, Dora Schnexnider, has presented a written statement in which I concur completely.

The bill under consideration will not satisfy everyone. Indeed, if the decision on the allocation rested solely in my hands, I would make the allocation based on the present membership. However, the allocation set forth in S. 1823 has been approved by the general council of my tribe as a compromise.

The claims which are the subject of this bill have been pending for many, many years. The money to pay the awards has been appropriated for many years. During this interim period since the funds have been appropriated, many of our older people have died. They will never benefit from what was rightfully theirs. And who can tell of what opportunities have been lost by our young people because they have not had the use of their money. We are not a wealthy people. Our people need these funds.

We could go on haggling over the allocation percentages for years. Realizing this, our people, in the spirit of compromise, agreed to allocation based on the 1937 roll, as adjusted, as provided in this bill.

As I indicated, this will not please everyone. But this matter must be resolved. Therefore, I respectfully request, on behalf of my people, that you recommend that this bill be passed as soon as possible.

I have one slight reservation about the bill in its present form which I must bring to the attention of the committee. I am advised by my attorney that the language which appears at the end of section s (c): "unless they are deceased," is somewhat confusing.



I understand that the Bureau of Indian Affairs has developed language which more clearly sets forth the adjustment to be made to the rolls. I trust the committee will give due consideration to the Bureau's recommendation.

I thank you.

Senator BARTLETT. Thank you very much, Mr. McClelland.

Mr. Black.

### STATEMENT OF AMOS BLACK III, TRIBAL ATTORNEY, SAC AND FOX TRIBE OF OKLAHOMA

Mr. BLACK. Thank you, Mr. Chairman.

For the record, my name is Amos Black. I'm the son of Amos Black also, who's a full-blooded Sac and Fox and past chief of our tribe in Oklahoma.

I would like to briefly comment on some of the items and issues that were raised by the Iowa delegation and their respective Senators and Representatives. One statement was made concerning old letters of the Bureau of Indian Affairs and statements contained in these old letters concerning the fact, or alleged fact, that the Bureau does not possess the authority to either delegate or recommend division of claims funds.

I would hope that the state of our Nation hasn't deteriorated to such a degree that the governmental agency cannot change their mind once they become more enlightened. I believe they can.

Another item, or word, that came up many, many times in the discussion concerned fairness, fairness to the Iowa tribe and the Sac and Fox Tribes in Kansas. This word was mentioned, many, many times by Senator Dole and Senator Clark and Representative Grassley.

I would pose one question to the committee, and I ask the committee can Congress justify why one full-blooded Oklahoma Sac and Fox Tribe should receive a sum drastically less than a full-blooded Indian of the Iowa Sac and Fox Tribe? I think not.

Mention has been made concerning questions posed by the Chair concerning the criteria that was used for the 1891 and 1892 rolls. This question was also posed to the Commission at the hearing for the subcommittee in the House, and for the record I would like to read to you the response that the Commissioner made to Chairman Meeds concerning this matter.

The letter is dated July 25, 1975, to the Honorable Lloyd Meeds, chairman of the Subcommittee on Indian Affairs, Committee on Interior and Insular Affairs, House of Representatives, Washington, D. C.:

Dear Mr. Meeds: This letter is submitted in response to your request for further information at the June 24th hearing before the Subcommittee on Indian Affairs of the Committee on Interior and Insular Affairs on H.R. 4016, regarding the applicability of Sac and Fox allotment and annuity rolls of 1891 and 1892.

The Bureau of Indian Affairs' objection to the use of the 1891 and 1892 rolls is based upon the inaccuracies contained therein and the fact that they are irrelevant to the land sales and cessions on which the claims in the several dockets are based.

The Act of February 13th, 1891, which authorizes the allotment of Sac and Fox lands in Oklahoma, in Article 2, states that "each and every citizen shall have the right to select for himself one-fourth of a section of land."



Article 7 of the same Act limits participation to persons whose names are now on the rolls of Sac and Fox at the Sac and Fox agency.

The instructions prepared for the agents who are to implement this act specified June 12, 1890 rolls. This roll is a census roll and not a membership roll. A census roll lists those persons at the agency at the time it was taken, and does not include and makes no provision to include those persons who for one reason or another were absent.

It is our feeling that some persons who should have been eligible for allotments were not notified and therefore not allotted and not on the allotment roll. We believe that similar inaccuracies occurred on the rolls of the two other Sac and Fox tribes.

It was only beginning in the 1950's that the Bureau of Indian Affairs directed that in preparing tribal rolls that they were to be based on enrollment and not on residence.

Despite the use of more sophisticated enrollment procedures, there were still errors in the 1937 roll. While this fact is in itself deplorable, it does serve to underscore the probability of error in the earlier rolls.

To reiterate, the Bureau supports the division of the Sac and Fox judgment based on the 1937 census roll for the following reasons:

1. They are the official base rolls for the membership contained in the organizational documents of the Sac and Fox tribe of Oklahoma and the Sac and Fox tribe of Iowa.

2. The same criteria were used in preparing the 1937 census roll for all three Sac and Fox tribes.

3. The varying enrollment criteria of the various Sac and Fox tribes were developed subsequent to the development of the 1937 census rolls, except that the Iowa Sac and Fox continued to recognize the original patrilineal membership system; and

4. They are recent enough to be corrected to include those persons eligible, but inadvertently neglected at the time of the rolls' preparation.

For these reasons we believe that the 1937 census rolls, as corrected, are the earliest accurate rolls for determining the division of the Sac and Fox judgment funds.

Sincerely yours, Morris Thompson, Commissioner of Indian Affairs.

And I believe, Mr. Chairman, the Commissioner's letter pretty well summarizes the arguments for the 1937 rolls, with adjustments, and we recommend the passage of our bill.

Senator BARTLETT. Are there any other statements you'd like to make at this time?

Mrs. SCHNEXNIDER. Mr. Chairman, I think this concludes our testimony, and we would like to answer any questions if you have any.

Senator BARTLETT. Chief Schnexnider, the Oklahoma Sac and Fox would like to have the funds divided based on the 1937 census roll, but you mentioned the 1866-1867 roll as an alternate basis for division.

What was the purpose of the 1866-1867 roll?

Mrs. SCHNEXNIDER. Well, when you go back to a date, the earliest date that the land was taken, that would be the date, the earliest rolls to the date that the land was taken.

Senator BARTLETT. Do you know what criteria was used in preparing them?

Mrs. SCHNEXNIDER. The 1866-1867?

Mr. BLACK. Mr. Chairman, this is the problem with the prior rolls, the indefiniteness of the criteria, which does not exist on the 1937 rolls.

Senator BARTLETT. I see.

How would you obtain, or how would you determine accuracy on the 1866-1867 rolls?

Mr. BLACK. I would think to determine the accuracy, Mr. Chairman, on those rolls would almost be impossible. I can't see how it could be determined.



Senator BARTLETT. The Department and tribal witnesses have testified that the formula for division of funds in dockets Nos. 138 and 143 was agreed to by all three Sac and Fox groups.

What was the Oklahoma Sac and Fox group's understanding of how that formula would work at that time?

Mrs. SCHNEXNIDER. Mr. Chairman, are you referring to that formula that they arrived at their meeting at Topeka or at Kansas City in 1971?

Senator BARTLETT. It's the formula that appeared in Public Law 80-90. I'm referring to the meeting at Topeka.

Mrs. McCORMICK. At Topeka? I think, Senator, you're referring to the action taken at Topeka, Kans. as it was understood by the Oklahoma Sac and Fox.

This was not an agreement that would set a precedent, as I noted earlier witnesses were stating, but there was a condition to that agreement. And I think if you will turn to attachment No. 2 of our presentation we include this resolution as it was our understanding.

The condition was to have been based on the fact that each tribe was to—well, that 5 percent was to be held back by each tribe, and this was never done. That was our agreement to the action taken at that time.

Senator BARTLETT. Well, what happened after that agreement was reached?

Mrs. McCORMICK. What happened?

Senator BARTLETT. In other words, agreement was reached and then, apparently, subsequent—

Mrs. McCORMICK. Well, the 5 percent just was never withheld, which had we known it, as we stated in our testimony, we would have never agreed even to that, had we known the 5 percent would not be held back.

Our acceptance of that action was conditioned upon the fact that 5 percent would be withheld, and this was never done, and has not been done to this day.

Mrs. SCHNEXNIDER. Apparently, Mr. Chairman, the 5-percent wording just got lost somewhere and those two dockets were divided on the 1891-1892 rolls.

Mrs. McCORMICK. Incidentally, Senator Bartlett, we're going to look at the legislative history of that and provide that for the record also.

[The material referred to was not received in time to be included in the record.]

Mrs. SCHNEXNIDER. Also, I—

Mrs. McCORMICK [continuing]. Also, as further insight into the results of this action. Senator, I might point out here much, many words, have been postulated here this morning about fair and proportionate share and equitable share.

The Oklahoma Sac and Fox per capita payment was \$540 to each member, and I would be happy to know what the Kansas members' per capita share was and the Iowa members' per capita share was. I think you'll understand our dissatisfaction with this means of dividing the claims, because it was my understanding that their share was like something up into the thousands of dollars.



Senator BARTLETT. I understand that you have underway a plan for protecting minors' shares of the funds.

Could you elaborate on that?

Mrs. SCHNEXNIDER. Yes, Mr. Chairman. We, the general council of the tribe, directed the business committee to come up with three proposals to submit to them for establishment of some kind of trust for the minors, and we do have a staff person especially assigned to that area, and we will be getting professional expertise in this area.

We very definitely will have some kind of trust program set up for our minors.

Senator BARTLETT. Is the Sac and Fox Tribe of Oklahoma interested in compromising from the position you have taken?

Mr. BLACK. Mr. Chairman, we have compromised from current membership to the 1937 rolls, with adjustments. We get our directions from the general council, per our Constitution. This is the supreme governing body on claims matters, and they have agreed to the compromise of the 1937 rolls with adjustments from current membership, which was their first position.

At this point, I don't believe the committee has the authority to change that position.

Senator BARTLETT [presiding]. Can you tell me how many adjustments in the 1937 rolls you have found, because apparently you have done your review?

Mrs. McCORMICK. Approximately 86, Senator.

Senator BARTLETT. Eighty-six?

Mrs. McCORMICK. Yes.

To reinforce Mr. Black's statement just now about general council action, attachment No. 4, by the vote—well, Senator, I think that this will give you a good idea of the council's feelings about compromising down to 1937, with adjustments, from their previous position of current membership. The vote was 58 yes and 23 no.

So, it was no majority thing. The council was very, very—has strong feelings about having to come down to a compromise, and that is attachment No. 4, Resolution 74-61.

Senator BARTLETT. On the review that you made to determine the additional members, to the 1937 census, how long did that review take, or how long would that take if it was done on a continuous basis?

Mrs. McCORMICK. To—I'm sorry, sir.

Senator BARTLETT. Well, I'm just trying to get an idea of time involved. I don't know whether the other tribes have ever updated their 1937 rolls. Maybe they've had no reason to.

Mrs. McCORMICK. We have been told that this would add a few to their 1937 census rolls, too. Is that what you mean?

Senator BARTLETT. Well, I was asking about the time involved in determining the number that you gave me of 86.

How much time was involved in obtaining that number?

Mrs. McCORMICK. It took some time, and our Oklahoma Sac and Fox have completed that review. I think it would be a matter of days to review it and make sure of that.

Senator BARTLETT. Well, what I'm getting at is S. 1823 provides for a period of approximately 90 days from date of the act in which the three groups shall correct their respective 1937 census rolls.

Mrs. SCHNEXNIDER. Yes, that's true.



Senator BARTLETT. Is 90 days an adequate amount of time as far as the Sac and Fox of Oklahoma are concerned?

Mrs. SCHNEXNIDER. We think it is.

Senator BARTLETT. Is there any—yes?

Mrs. McCORMICK. I have one more comment I'd like to focus attention on.

Also, another word that kept getting my attention this morning was "tradition." And making the Oklahoma Sac and Fox appear as though we were not Indians. And tradition is important, very definitely it is, even to the Oklahoma Sac and Fox.

I just want the record to show that we object to this type of intimidation that we're not full-blooded Indians in Oklahoma.

Yes, we have many tribal members who live out of our State. We have many members who must, by choice, they've married into other families, and must live where they are now located. We have a member with us today whose home is now in Cambridge, Mass. We have several members here today with us whose home is here in Washington, D.C.

But I don't believe that this—although maybe they're not back home in Oklahoma to share the day-to-day traditions—our tribe keeps up one of the most consistent communication through our tribal newsletters. And the tribal members throughout our Nation are encouraged to come home to Oklahoma for our traditional pow-wows, and the different tribal activities that we have.

So, I don't think that we should be penalized. In fact, we're making every effort to recapture what we have lost. And, as I mentioned earlier, the Sac and Fox language primer book is ready for publication, and I think that's a very commendable contribution, in that one tribe has done something positive to regain their tradition.

And so, I do want to have that go on record, that even though our members live out of State, you know, if somebody is trying to say they are not Indians because they live out of the State of Oklahoma, you know.

Senator BARTLETT. Mr. Gerard has a historical question. He would like to know how the Sac and Fox Nation was able to control such a large amount of land.

VOICE. Ask the lawyers.

Senator BARTLETT. Do they have good lawyers in Indian country?

Mrs. McCORMICK. No. We had very good warriors.

Senator BARTLETT. Oh, good warriors, not lawyers.

Mr. BLACK. It was a powerful tribe.

Senator BARTLETT. Well, we'll be getting into a little battle here. Mr. Gerard says your tribe apparently had not met the Blackfeet.

Mrs. McCORMICK. We're completely annihilating the Illinois tribes.

VOICE. That's how the Blackfeet got out West.

Senator BARTLETT. All right.

Are you all finished with your statements?

Mrs. SCHNEXNIDER. Mr. Chairman, may I point out one last thing that I don't think we have brought out in our testimony, but as a woman—and certainly I respect tradition—but I do believe that women of the world have much to offer, and I just notice that in the Iowa Sac and Fox enrollment criteria they are still enrolled by patri-



lineal method. And, of course, personally that's very offensive to me. But if that's their tradition then so be it.

But I think that the point is that all of our members—on the Oklahoma Sac and Fox roll there is no such limitation, and as long as that person can prove that he or she has one-fourth Sac and Fox blood—and, by the way, we do consider the Sac and Fox blood in Kansas Sac and Fox blood in helping them reach one-fourth degree Sac and Fox blood and if they want to be on our rolls then we enroll them, and have enrolled some of their people, and will probably continue to do so, as long as they, you know, meet the enrollment criteria.

Thank you, Mr. Chairman.

Senator BARTLETT. Yes.

Are there any other comments that any of you would like to make?

[No response.]

Senator BARTLETT. All right.

Thank you, Sac and Fox of Oklahoma.

If Mr. Keahnah has any further statement he would like to make, please do so. I'll just call on each group and see if they have any kind of a rebuttal statement that they'd like to make to what has been said, then I'll come back to the Oklahoma group again.

Mr. MILLS. Mr. Chairman, on behalf of the Iowa Sac and Fox we believe there's a great difference between basically the Oklahoma Sac and Fox—

Senator BARTLETT. Can you hold for just a minute? We will excuse the Oklahoma Sac and Fox people, and you can come back to the table.

This will be the rebuttal segment now.

Mr. Mills, you may come back. Mr. Keahnah may come back, too, if he wishes.

Mr. MILLS. I think the only rebuttal that we would like to emphasize is that the Iowa Sac and Fox are basically a real Indian tribe, and we run our tribe out there as Indians.

Now, I'm not so certain about the Oklahoma group. I think they're a sophisticated, educated, knowledgeable people, and I think their position has been they're good business people. They have built up their rolls and our people haven't. I think that's about what it amounts to.

We don't think that would be just to let them benefit at our expense, and we propose in the awards that we get that at least half of any money goes to programing. Their thing is they're going to divide up 80 percent and keep the other 20 percent for the programing. They probably don't need it as much as we do.

I think that's the basic differences in the philosophies of these two groups. Thank you.

Senator BARTLETT. Mr. Mills, would it be perhaps—

Mr. MILLS. Excuse me.

Senator BARTLETT [continuing]. Well, I won't ask that question.

Is there any other statement you'd like to make?

Mr. MILLS. I don't think so. Thank you.

Senator BARTLETT. Mr. Gilfillan?

[No response.]

Senator BARTLETT. Has he left? Is there anyone else from the Sac and Fox Tribal Council of Kansas and Nebraska?



[No response.]

Senator BARTLETT. Is there any rebuttal from the Oklahoma's Sac and Fox?

Mr. BLACK. Mr. Chairman.

Senator BARTLETT. Mr. Black, if you'd come up to the table, so we can hear you.

Mr. BLACK. Mr. Chairman, there's one short statement. I hope that the Oklahoma Sac and Fox Tribe will not be penalized for the efforts of our grandfathers and fathers that some of them made to educate a few of us.

Senator BARTLETT. I'm sort of tempted to comment, since I'm from Oklahoma and have on an Okie button, which stands for Oklahoma Key to Intelligence and Enterprise, but I won't. [Laughter.]

Senator BARTLETT. Well, we thank you all very much, and we hope and think we have a good record.

Thank you.

Mr. MILLS. We thank you, Senator.

Senator BARTLETT. Thank you very much.

Mr. MITCHELL. One more question.

Senator BARTLETT. Yes?

Mr. MITCHELL. How soon can we realize something out of this?

Senator BARTLETT. Well, I am serious in what I said, that I'm dedicated to the idea of passing the bill. We're hoping to bring this before the committee early in October.

We are earnest about that, and we hope that the different segments of the Sac and Fox Tribes in the respective States will do everything they can to help the committee reach a decision on the determination of this.

We realize that this has been held up for a very long time, and I'm sure all of you would agree that you'd like to have a decision made. We're going to try to do that as fairly and as squarely as we know how.

Thank you.

[Whereupon, at 12:45 p.m., the subcommittee adjourned.]





1. The first part of the paper is devoted to a general discussion of the problem of the origin of life. It is shown that the problem is one of the most important and most difficult in the history of science.

2. The second part of the paper is devoted to a detailed discussion of the various theories of the origin of life. It is shown that the most plausible theory is the one which assumes that life originated from non-living matter.

3. The third part of the paper is devoted to a discussion of the various experiments which have been carried out in order to test the various theories of the origin of life. It is shown that the results of these experiments are in general in favor of the theory of the origin of life from non-living matter.

4. The fourth part of the paper is devoted to a discussion of the various problems which are still connected with the problem of the origin of life. It is shown that these problems are of great importance and interest.

5. The fifth part of the paper is devoted to a discussion of the various conclusions which can be drawn from the results of the various experiments and theories. It is shown that the most plausible conclusion is that life originated from non-living matter.

6. The sixth part of the paper is devoted to a discussion of the various applications of the results of the various experiments and theories. It is shown that these results have a great importance for the history of science.

7. The seventh part of the paper is devoted to a discussion of the various problems which are still connected with the problem of the origin of life. It is shown that these problems are of great importance and interest.

8. The eighth part of the paper is devoted to a discussion of the various conclusions which can be drawn from the results of the various experiments and theories. It is shown that the most plausible conclusion is that life originated from non-living matter.

9. The ninth part of the paper is devoted to a discussion of the various applications of the results of the various experiments and theories. It is shown that these results have a great importance for the history of science.

10. The tenth part of the paper is devoted to a discussion of the various problems which are still connected with the problem of the origin of life. It is shown that these problems are of great importance and interest.

11. The eleventh part of the paper is devoted to a discussion of the various conclusions which can be drawn from the results of the various experiments and theories. It is shown that the most plausible conclusion is that life originated from non-living matter.

12. The twelfth part of the paper is devoted to a discussion of the various applications of the results of the various experiments and theories. It is shown that these results have a great importance for the history of science.